The Politics and Theology of Aboriginal Reconciliation

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In 1991 the Australian Commonwealth parliament voted unanimously to establish an independent and bipartisan body charged with the responsibility to promote a 'reconciliation' between indigenous and non-indigenous Australia. The new Council for Aboriginal Reconciliation (CAR) was to have stewardship but not control of a process limited by legislation to a decade. This thesis presents a history of that process. In particular, it presents the language of Aboriginal reconciliation as a 'secularised' form of Christian theology. The deployment of that language onto the imagined moral corpus of the nation also resembled a Christian form of confessional technology; the sacrament of reconciliation or 'penance'. Secularisation is here presented as the transformation rather than as the decline or delineation of the sacred. The 'transposition' of religious concepts into apparently mundane or earthly political language renders the separation of church and state, religion and politics, unstable: the liberal constitutional state is unable to finally identify the religious.

It was clear that the Council had failed to bring indigenous and non-indigenous Australia to any kind of reconciliation. 'Reconciliation' seemed to point to a future unity between indigenous and non-indigenous Australia, yet conservative and progressive supporters of reconciliation imagined a unity that was fundamentally different: the politics of citizenship and the politics of indigeneity each found expression in the language of reconciliation. It is the contention of this thesis that this secularised religious language did not provide either side with an answer to the question, what should be the shape of
the political and legal relationship between indigenous and non-indigenous Australia?
Rather, the discourses of Aboriginal reconciliation repeated the ambiguities and aporias
that also mark the theology of reconciliation. The Aboriginal reconciliation process was,
for this reason and in the sense described by Derrida, 'impossible'.
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INTRODUCTION

The Australian reconciliation process occurred in the context of what Tully, after Wittgenstein, has called a background agreement in forms of life or language. That language is the Christian language of reconciliation. Whilst not determinative of any particular proposition in regards to any political dispute, that language has given a particular shape to the debate about the relationship between Indigenous and non-Indigenous peoples in Australia. It is a form of language that has, like Wittgenstein's image of a picture which holds us captive, both limited and structured the way in which Australian politics has been conceived. On the one hand, the great Christian themes of sin and forgiveness, apology and unity, have been applied to Australian politics, and have produced a new and challenging moral dynamic. On the other hand, reconciliation has obscured an older debate, that regarding Indigenous sovereignty, in the image of an approaching or desired unity which, nevertheless, presumes or requires contemporary political difference.

As a response and an alternative to treaty politics, reconciliation can be considered as part of the ongoing nation-building project of a settler-society.\(^1\) Promising unity, it cut against

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\(^1\) Pearson describes 'settler societies' as those contemporary nation-states 'born out of the colonisation of territories and peoples by, in this case, European migrant groups with intentions to settle and build "self-sustaining states" with their own newly minted nationhood. Such motives demanded, often their initial, but invariably subsequent, political domination over indigenous populations and their control of immigrant Others.' Australia, Canada and New Zealand are three examples of settler-societies; The Politics of Ethnicity in Settler Societies, p5. On state formation and nation building in settler societies, see pp 8-10, 73-74. Rowse also argues that 'one way to make sense of the politics of indigenous Australians is to frame
the claim made by some Indigenous peoples that they were and remain sovereign. Conservative politicians argued that a reconciled Australia was marked by an essential unity in which no one group enjoyed rights not enjoyed by others. In a more radical sense, conservative understandings of reconciliation figured a reconciled Australia as a nation in which groups did not exist in anything other than a social or rhetorical sense.

The important point, said Prime Minister John Howard, was that all citizens share a commitment to the unity of the nation. This logic underwrote the argument made by conservative figures like Nick Minchin that native title rights for Indigenous peoples were a threat to the unity of the nation and hence to the reconciliation process itself. In that sense, the reconciliation process was, especially in its more ‘practical’ guises, a species of a liberal assimilationist politics which revolved around the concept of citizenship. Coalition understandings of reconciliation stressed that Indigenous disadvantage was to be addressed as an incident of Australian citizenship, and not as restitution or reparation for past mistreatment, or in recognition of any specifically Indigenous rights to land or to government funds.

Just as reconciliation repeated the politics of liberal assimilationism insofar as conservative participants were dismissive of the claims to sovereignty or to other rights derived from indigeneity, it also carried with it a treaty politics by another name. The process was framed at beginning and end by talk of a treaty and repeatedly returned to the subject of ‘compacts’ and ‘framework agreements’ throughout the life of the Council for Aboriginal Reconciliation (CAR). There was a constant tension between the politics of
citizenship, ranging from the benign vision of a culturally pluralistic Australian society to Peter Howson's vision of reconciliation as assimilation, and the politics of indigeneity, which does not necessarily accept that Indigenous and non-Indigenous peoples should be governed by uniform political institutions. This tension persists as the central problem of an ongoing Australian reconciliation process. This was not a new debate. What was new about reconciliation politics was the manner in which Christian imagery and derivative forms of Christian penitential technologies were deployed upon the imagined moral corpus of the nation, and on this problem of political difference and unity. This is not to say that the language of reconciliation gave either side a definitive answer to the question, what should be the shape of the relationship between Indigenous and non-Indigenous peoples in Australia? Rather, it repeated a series of tensions between unity and difference which it did not, and could not, resolve.

Labor, the Coalition and various Indigenous groups all adopted stances towards the reconciliation process that were at times highly pragmatic. This is not necessarily to integration of a colonised minority into national political life.' Roswe, T, Obliged to be Difficult, p218.

Howson, P. ‘Why there should be no apology’ Sydney Morning Herald, 10 May 2000 p.17 Monica Morgan also described the reconciliation process as an assimilationist program. For Morgan, reconciliation means ‘a process where Aboriginal and non-Aboriginal people are supposed to melt together and forgive each other’; Morgan, M, quoted in It’s Not Easy Walking in There, p144.

Reconciliation discourses demonstrated what Foucault has described as a polyvalent propensity to work in multiple directions and strategies, against as well as with the original goal desired. Foucault writes, ‘there is not, one the one side, a discourse of power, and opposite, another discourse that runs counter to it. Discourses are tactical elements or blocks operating in the field of force relations; there can exist different and even contradictory discourses within the same strategy; they can, on the contrary circulate without changing their form from one strategy to another, opposing strategy’; Foucault, M, The History of Sexuality, Vol One, p101.
suggest that there was a lack of good-will on anyone's part. Nor do I believe that the countless private citizens who gave of their own time and energy were possessed of any machiavellian intent. Their participation in the process might in fact have been one of the great successes of Aboriginal affairs policy in the nineties. But the question of goodwill is not, in my opinion, the most important one. Nor is this thesis a history of the forms of social practice encouraged by government policy. Perhaps one of the most significant aspects of the reconciliation process, the Study Circles Project, is not covered here at all. The Bridge Walk, the countless instances of 'reconciliation in the community' as well as those other practices that might have led to what was described, ubiquitously, as a reconciliation of the hearts and minds, are also absent. These activities are instances of the social practice of citizenship, of learning how to be a particular kind of citizen, an Indigenous or non-Indigenous citizen. These practices do not necessarily entail a particular social or political imaginary. Like the policy of self-determination, reconciliation as government policy encouraged particular forms of social practice, action and organization that could be understood on a local or (as in the case of reconciliation) on a personal or even spiritual level.

Self-determination and reconciliation can also be understood as projects pertaining to the nation, as operating on a social body or entity which exists beyond the lived experience of any particular citizen and which is for that reason, in the terms developed by Benedict Anderson, an imagined whole. This thesis addresses the manner in which the discourses of reconciliation, by relating Indigenous to non-Indigenous in the desired or perceived

Footnote:
4 For a double sided reading of such practices, see Tully, J, 'The Struggles for and of Freedom', in Ivison,
unity of an approaching post-colonial state, operated to effect changes on this social imaginary. My question concerns the way in which a particular political discourse positioned Indigenous and non-Indigenous peoples in relation to each other, as collective political constituencies, and to the nation as constituent parts of a whole. How were Indigenous and non-Indigenous peoples both separated and joined by this project of reconciliation? Such an investigation is not apolitical, or a work approaching fiction. The importance of the social and political imaginary lies in its ability to determine the horizons of possibility for government policy. The question of a treaty, for example, is one that can be understood in terms of these localised forms of social action encouraged by the policy of self-determination. But the prospects for such a treaty at the national level are firmly bound up with the kind of discursive work performed in the context of reconciliation. When John Howard expresses his opposition to a treaty between the

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6 I accept the definition of internal colonialism developed by Tully: The essence of internal colonisation is not the appropriation of labour, depopulation or the appropriation of self-government: ‘Rather, the ground of the relation is the appropriation of the land, resources and jurisdiction of the indigenous peoples, not only for the sake of resettlement and exploitation (which is also true in external colonisation), but for the territorial foundation of the dominant society itself.’ Tully, J ‘The Struggles For and Of Freedom’ in Ivison, D, et al., Political Theory and the Rights of Indigenous Peoples, p39. See also Reynolds, H, Aboriginal Sovereignty, p 117; Rowse, T, ‘The Humanitarian Legacy’ Arena, February 2000, p 33; Fleras, A, ‘Politicising Indigeneity: Ethnic Politics in White Settler Dominions’ in Havemann, P, Indigenous Peoples Rights, p 187; Rowley, C.D., Aboriginal Policy and Practice, Vol III, the Remote Aborigines, p1.
Commonwealth and Indigenous peoples he operates within a particular form of political imaginary which stresses the 'essential unity of the Australian nation.' The Australian reconciliation process, however, structured that unity in diverse and contradictory forms and in a manner which repeated the theological ambiguities of Christian reconciliation.

The Aboriginal reconciliation process ended without an apology to the Stolen Generations and without a document or documents of reconciliation with any real importance or weight in law. There was a widespread sense that the process was incomplete and for that reason alone a failure. No doubt many observers would lay responsibility for that failure at the feet of the Howard government, and in particular at the Prime Minister's own recalcitrance on a number of key issues. It might strike a rather pessimistic note to say that the Aboriginal reconciliation process was impossible, always incomplete, doomed from the very beginning. But this is so not for any want of effort on behalf of the many Australians who devoted so much time and energy to its success. Nor is it owing to the impossibility of a true or final reconciliation in the context of deep and historically conditioned cultural diversity (although this is an idea to which I will return, in the context of discussing the relationship between reconciliation and justice.) Rather, the theological language of reconciliation, secularized and brought to bear on the problem of Indigenous and non-Indigenous relations in Australia, was from the beginning related to an idea which is, in the sense described by Derrida, impossible. It is impossible because the economy of reconciliation, of exchange and of conditional redemption, of making the polity work, even when fashioned to map onto an institutionalized political process, only makes sense in relation to the idea of a pure gift, a pure forgiveness, an
unconditional reconciliation. This is the same idea that makes it possible to write the kind of critique found in the Chapter Four of this thesis, to describe the politics of healing and of reconciliation as subject to an economy of exchange. This idea of the unforgivable makes reconciliation thinkable at the same time as it renders all actual manifestations of such a process subject to critique.

It is tempting to dismiss the theological dimensions of the Australian reconciliation process as a violation of those basic liberal principles: that there will be a separation of church and state, of religion and politics, of the public and private spheres. No doubt such an approach could be presented as a fait accompli, as the last word that is already also, because it is a taken for granted assumption of contemporary Australian politics, the first word. An alternative thesis is presented here. Liberal democracy, despite or because of secularisation, is unable to police with any finality those lines which are thought to be central to it. This is so because liberalism is unable to locate and hence to finally identify the religious. Secularisation, rather than being the eradication of the sacred, appears here as the transposition of religious language and symbols into ‘earthly’ political discourse. Rather than the end of religion, we see a fundamental blurring of the line between faith and reason, religion and politics, church and state.

These theoretical questions of religion and politics are taken up in Chapter One. Chapter Two considers the history of the language of reconciliation, as developed in the Christian churches, in the context of both theologically formulated doctrine and the more ordinary language of Christian penitential technologies. It also presents a methodology, drawn
from James Tully’s recent use of Ludwig Wittgenstein to discuss the language of constitutionalism, which can account for the methodological problems bedevilling the study of religion and politics in Australia. Chapter Three provides a necessarily brief over-view of the politics of reconciliation in the nineties, documenting the emergence of reconciliation as the dominant discourse in the politics of Indigenous affairs in Australia. Chapter Four, which has an immediate focus on the language of ‘healing’, considers the politics of apology and forgiveness. The chapter identifies the reconciliation process as a political technology for the moral rehabilitation of the nation, an economy of exchange in which apology and perhaps penance meet forgiveness and a transcendent unity. It also considers the ‘impossibility’ of coming to any final reconciliation between Indigenous and non-Indigenous Australia. Chapter Five examines the relationship between justice and reconciliation, focusing on penance and guilt as an aspect of the language of reconciliation, and linking those themes to both social justice and treaty-talk.

Each of these last two chapters is concerned, in its own way, with the tension between sovereignty and citizenship, unity and difference. Chapter Five approaches these issues through one part of the language of reconciliation, penance, via an examination of the historical debates concerning treaty politics and reconciliation. Chapter Four comes at these same issues through an alternative part of the same language, apology and forgiveness. Each makes the point that reconciliation is a project which, whilst promising unity, presumes historical and contemporary difference, without providing any definitive method by which that difference might be overcome, or what the quality of the expected unity might be. Will a reconciled Australia be characterised by a uniformity of political
institutions, by a diversity of cultures, by a permanent recognition of Indigenous and non-Indigenous as distinct political constituencies, or, as a project destined to fail, by some polyglot amalgam of diverse political projects and incomplete utopias?
CHAPTER ONE

THREE THESES ON SECULARISATION
Given that we live in a liberal democratic and constitutional state, and given the formula, that in this state, there is a separation of religion and politics (or, the not strictly equivalent formulation, the 'separation of church and state'), how can we say where politics begins and where religion ends, and vice versa? Yes, we can discern the 'extreme case.' It is possible to imagine a theocracy because there has been and there are theocracies. But it is much harder to discern the opposite pole of what we might think of as a spectrum of church-state integration and separation. Can we really imagine a politics without religion, a polity in which church and state are actually and in every sense separate? That we cannot see let alone imagine this pole must make us doubt that this relation of integration and separation forms a spectrum at all. That is, theocracy is not the extreme case, because there is nowhere and nothing to which it is related that makes it the radical example or opposite of any particular thing. And if there is no spectrum, there is no middle point at which we might be tempted to place our own tolerant liberalism, where we might think that religion and politics, although presently (and perhaps unfortunately?) muddled, could be, in theory and with great effort, somehow disentangled.

This formulation, the separation of church and state, firstly depends upon the invention of religion as a separate realm, upon the identification and so the localization of both

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7 Connolly writes: 'the relation between church and state would be better characterised, not as a separation, but as a series of intersections and interdependancies mediated by institutional distinctions and linkages. Secularism is better conceived, not simply as a counterpoint to theism, but as an ambiguous phenomenon that confronts theism on some planes and absorbs its legacy into secular vocabularies and practices on others. Secularism, in one of its dominant modes, constitutes the after life of Augustinianism'; *Identity/Difference*, p145.
religion and politics (this is where faith is, and this is where politics is.)\(^8\) The distinction between religion and politics is internal to the language of secularisation itself. Secularists themselves categorise what they then proceed to divide institutionally. But the distinction between religion and politics is not equivalent to the distinction made within Christianity between the sacred and temporal, for example. That these divisions might generally be thought to be the same, or roughly the same, is the product of a confusion and not a correspondence between them. These distinctions, although sharing a resemblance which reveals the dependence of liberalism upon a particular theology, are not the same, and the difference between them renders contemporary liberalism unstable in respect of the question it supposedly answers. Politics and religion, despite or because of 'secularisation', are constantly confusing themselves before our very eyes.

We need firstly to distinguish between two easily confused theses concerning the relationship between religion and politics. 'Secularism' may be understood as a narrower claim going merely to the distinction between the political and religious spheres. Dating from the early modern period and coming to prominence in the religious wars of the Reformation and Counter-Reformation, it does not assert that there is any necessary link between modernity and the decline and eventual disappearance of religion. A broader thesis, that modernity is marked by 'disenchantment' or a gradual 'secularisation' of life in all its spheres is of more recent vintage. Max Weber is perhaps the most famous

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\(^8\) Caputo, describing the secularisation of European intellectual life during the Enlightenment, writes: 'Another way you could describe what happened is to say that in the meantime somebody invented "religion" and declared it off limits from "reason." In the Middle Ages the word religio was a word for virtue, the habit of being religious....there was no separate sphere or delimited region called "religion" which was to be differentiated from reason, politics, art, science or commerce.' On Religion, p43.
proponent of the broader secularisation thesis, but he was neither the first nor the last to suggest that the modern world would witness the passing of religion. A range of thinkers from Descartes, Comte, Kant and Marx through to Nietzsche and Freud accepted, in one way or another, an ‘Enlightened’ suspicion of religion. The Australian reconciliation process points, however, to the continued relevance of religion (although in novel and perhaps unrecognised forms) in modern or post-modern politics. This unacknowledged religious dimension suggests a third thesis: that ‘secularisation’ is not the triumph of reason over faith but the transposition of theological concepts into mundane or earthly political language. Or, that a divine remnant animates earthly forms of political expression. The necessarily brief discussion of these three theses contained in this chapter frames the substantive discussion of the Australian reconciliation process contained in subsequent chapters of this thesis.

\[9\] Peter Berger describes secularisation as ‘the process by which sectors of society and culture are removed from the domination of religious institutions and symbols’; Berger, P, ‘The Desecularisation of the World: A Global Overview’ in Berger, P, (ed) The Desecularisation of the World: Resurgent Religion and World Politics, p2. Howard uses the term secularisation to refer to ‘a complex of processes in which religion came to lose its authority over other social institutions. Modern Europe, unlike its pre-modern past, has largely ceased to legitimize the authority of its law, learning and social arrangements by appeal to religious sanctions and supernatural endorsement’; Howard, A, Religion and the Rise of Historicism, p17. Donald Smith developed his definition of the secular state in the course of his study of Indian constitutionalism. For Smith, the secular state is defined by three interlocking separations or oppositions; the separation of religion and the state, the separation of religion and the individual (freedom of religion) and the separation of state and the individual (citizenship); Smith, D.E, ‘India as a Secular State’ in Bhargarva, R(ed) Secularism and its Critics, p177. See Aldridge, A, Religion in the Contemporary World, for an overview of the secularisation thesis from Comte to Wilson and Berger, pp56-88 and Hallencreutz, C and
1. Secularisation as a 'Modus Vivendi.'

Connolly provides a sketch of the typical historical narrative in which the Reformation and religious conflict in Europe are said to have led to the separation of church and state: the intractability of religious disputes convinces Europeans to relegate questions of faith to the private sphere and to accept a form of public reason as the basis of agreement and debate on non-religious issues. The secularisation of public life makes civil peace possible and guarantees individuals a measure of private freedom in so far as they are no longer subject to the demands of state sanctioned religious tests and duties. On this view, secularisation or 'secularism' is a *modus vivendi* between contending religious forces each of which recognises the common interest in demarcating the state as a no-go zone. Even within this particular thesis of secularisation, which I have called 'secularism', there is variation. The particular character of the compromise between denominations might take one of several forms. One form of secularism attempts to base a political ethic on a common ground of religious belief, adopting a minimally theistic position acceptable to all faith groups. An alternative strategy is the attempt to define a political ethic independent of religious faith. The formulation of this ethic involves the search for rules

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11 *ibid*, p19.
governing the human condition that can provide the basis for exceptionless norms, such as peace and political obedience.\textsuperscript{12}

Accounting for each of those claims directs one back, however, to Christian formulations of the relationship between the ecclesiastic and temporal realms. Whilst Derrida may be right, in some senses, to point to the Judaic-Christian-Moslem tradition as a single, monotheistic and ‘Abrahamic’ tradition, Fortin draws a distinction between Christianity and the other two monotheisms to make a point about the way each figures the relationship between the ‘temporal’ and the ‘divine.’ Whereas Judaism and Islam present themselves as divine laws of an all-inclusive social order, Christianity is a faith or sacred doctrine, requiring adherence to a set of fundamental beliefs, but otherwise leaving the faithful a large degree of autonomy.\textsuperscript{13} This difference grounded the development of two distinct powers, one civil and the other ecclesiasstical, each relatively free (in principle\textsuperscript{14}) from interference from the other. Whilst the former guided the faithful to their temporal end, the latter looked beyond this world in guiding humanity to its spiritual or supernatural destination.\textsuperscript{15}

\textsuperscript{12} Taylor, C, ‘Modes of Secularism’ in Bhargave, R, \textit{op cit}, p 33. Taylor cites Grotius as one exponent of this second view.

\textsuperscript{13} Fortin, E, ‘St Thomas Aquinas’ in Strauss, L and Cropsey, J \textit{History of Political Philosophy}, p251.

\textsuperscript{14} Bartelson describes the medieval political thought in this period as being ‘christological’, and as characterised by the use of a distinctively Christian ‘technology’: ‘The question of the proper locus of supreme authority involved the continuous exchange of the concepts and symbols, insignia and legal axioms of authority between Church and secular authority’; Bartelson, J, \textit{A Genealogy of Sovereignty}, p 92. Hinsley similarly notes that Papal-Imperial struggles up to the twelfth century were contests ‘between two theocratic authorities for leadership in a ritual community rather than a conflict between secular and spiritual authorities for the government of a body politic’; Hinsley, F.H, \textit{Sovereignty}, p60.

\textsuperscript{15} Fortin, E, \textit{op cit}, p251.
Contemporary secularism is thus heir to a particularly Christian way of considering the relationship between divine and profane time, space and action. On this view, secularism or ‘secularisation’ is not reason in opposition to faith, but a particular way of relating and hence joining distinct spheres which are not strictly equivalent to reason and faith. The term ‘secular’ is itself of Christian origin. ‘Saeculum’, Latin for century or age, acquired a special meaning when applied to profane time, the time in which humanity lives between the Fall and the Parousia: ‘This time was interwoven with higher times, different modes of what is sometimes called ‘eternity’, the time of the Ideas, or of the Origin, or of God. Human beings were seen as living in all these times, but certain acts, or lives, or institutions, or social forms could be seen as more thoroughly directed, towards one or another. Government was more ‘in the saeculum’ by contrast with the Church, for instance.’ For some scholars, this peculiar aspect of Christian theology is the basis of modern secularism. As Taylor put it,

Liberalism is not a possible meeting ground for all cultures, but is the political expression of one range of cultures, and quite incompatible with other ranges. Moreover, as many Muslims are well aware, Western liberalism is not so much an expression of the secular, postreligious outlook that happens to be popular among liberal intellectuals as a more organic

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[Also: "the existence of these oppositions reflected something fundamental about Christendom, a requirement of distance, of non-coincidence between the Church and the world. There were through the mediaeval centuries great overlap and great conflict between the Church and the state, but in all versions, and on all sides, it was axiomatic that there had to be a separation of spheres" Taylor, C, 'Modes of Secularism' in Bhargave, R, op cit, p32.]
outgrowth of Christianity...the division of church and state goes back to the earliest days of Christian civilization.\textsuperscript{17}

St Augustine's \textit{City of God}, for example, draws a distinction between the earthly and heavenly cities along the lines of virtue and vice.\textsuperscript{18} The believer possesses a twin citizenship of the earthly and divine cities, and continues to order his life within the framework of civil society.\textsuperscript{19} The City of God, as the only path to that peace and happiness desired by all people, aims at a goal higher than that to which civil society may aim. The Pauline doctrine that the powers that be are ordained by God for the purposes of ensuring civil peace in a Fallen world is upheld. But the two cities are inextricably mixed in this life, to be separated by God only at the end of history. The City of God thus transcends and supplements the political sphere, but does not supplant the earthly city.\textsuperscript{20}

\begin{thebibliography}{10}
\bibitem{} Taylor, C, \textit{Multiculturalism and the Politics of Recognition}; p62. Pointing to Weber, Troeltsch, Berger and Dumont, Madan notes 'the essential linkages among Protestantism, individualism and secularisation.' Rather than a transcendent principle of universal application, secularisation is a 'gift of Christianity to mankind...The privatisation of religion, through the assumption by the individual of the responsibility for his or her own salvation without the intervention of the Church, is very much a late Christian idea.' Madan, T, 'Secularism in Its Place' in Bhargava, R, \textit{op cit}, p298. Derrida also makes the point that he would never oppose secularisation to sacredness: the concept of secularisation is a religious concept, 'it belongs to a tradition of religious culture.' Derrida, J, 'A Discussion with Jacques Derrida' in \textit{Theory and Event}, 5:1.
\bibitem{} Fortin, E, 'St Augustine' in Strauss, L and Cropsey, J \textit{History of Political Philosophy}, p195.
\bibitem{} \textit{ibid}, p197.
\end{thebibliography}
We might be tempted to describe the Christian division of the temporal and religious realms as a prototypical liberalism, but such a description would be a distortion. Ecclesiastic and temporal do not map onto the distinction between public and private, religion and politics. The ecclesiastic realm may have been a place of relative freedom from civil authority, but it was not a realm of personal freedom per se. Each authority possessed coercive powers. In Luther we see a transformation: the end of the coercive power of the ecclesiastic estate, and, in some Reformed Churches, the beginnings of state control over ecclesiastic organisation. The notion that there might be a spiritual estate capable of exercising jurisdiction over temporal affairs was at odds with Luther’s notion of the ‘priesthood of all believers.’ The significance of the reformation for modern democratic politics is to be found in Luther’s emphasis on individuality, and the manner in which that emphasis on personal faith undermined the power of doctrinal communities.\(^{21}\) The Pauline doctrine that the powers that be are ordained by God was reiterated- Christians were to offer (qualified) submission to the earthly political authorities.\(^{22}\) But there was no notion of the ‘two swords’, or of parallel realms, but rather a complete denial of any jurisdiction inhering in the Church at all. The civil power was for its part directed to the temporal ends of humanity and was to be guided in the exercise of its power not by faith but by reason. As Luther put it,

\(^{21}\) Howard points to Protestant Christianity as the source of secularisation; ‘not only did the Reformation question ecclesiastical control and diminish sacerdotalism and sacramentalism, but on a cognitive level the importance of independent inquiry into the Bible …set the precedent for a later, more pervasive, faith-threatening conception of Kritik.’ Howard, A, op cit, p17-18.

God made the secular government subject to reason because it is not to have jurisdiction over the welfare of souls or things of eternal value, but only over bodily and temporal goods, which God places under man’s dominion. For this reason, nothing is taught in the Gospel about how it is to be maintained and regulated, except that the Gospel bids people honour it and not oppose it.\(^{23}\)

One might look profitably at ‘the heathen books and writers’ for guidance on matters of temporal or civil government.

2. Secularisation as ‘Disenchantment’

We can discern the origins of secularism, narrowly understood as the distinction between the two ends of humanity and therefore of government, in the Christian distinction between civil and ecclesiastic power. But the liberal and modernist distinctions between public and private, religion and politics, church and state, do not map onto the Augustinian distinction between the two cities or onto any medieval formulation of the ‘two swords’. O’Donovan notes that the separation of church and state is an

\(^{23}\)Luther, M cited in Forrester, D, *Theology and Politics*, p31.
uncommunicative formula...since those words assert nothing that could have perturbed the most traditional apologist for dual jurisdiction in Christendom.\textsuperscript{24}:

secularity pertained only to certain functions within society which had their raison d'être in relation to this age (saeculum), not the next. The distinction of spiritual and secular was a distinction of two kinds of government within the one society....there were not a spiritual society and a secular society, only a society of the sacred and the society of the damned.\textsuperscript{25}

In that sense, the civil power had, in specie if not always in the particular, a theological foundation or defence. By contrast, the modernist project of constructing a perfectly rational public sphere was based on the relegation of religion or theology to a private sphere of personal and subjective consumption. The distinction between the sacred and the damned made way for a more thorough-going distinction between objective reason and subjective faith and an assumption that the progressive rationalisation or secularisation of the world would culminate in the passing of religion itself. The young Marx borrowed the model of his critique of religion from Feuerbach:

The foundation of irreligious criticism is this: man makes religion, religion does not make man. Religion is, in fact, the self-consciousness and self-esteem of man who has either not yet gained himself or has lost himself again. But man is no abstract being squatting outside the world. Man is the

\textsuperscript{24} O'Donovan, O., \textit{The Desire of the Nations}, p244.
world of man, the state, society. This state, this society, produce religion, which is an inverted world consciousness...^26

Christian theology had long distinguished between the civil and spiritual ends of humanity. But the modernist or liberal formula of church-state separation is the transformation rather than the repetition of these Christian distinctions between ecclesiastic and temporal government, and relates more to Enlightenment scepticism about the suitability of questions of faith for public abstraction than to any distinction between this world and the next.\(^{27}\)

The *sine qua non* of modernity is a bracketing of religion; the decision, as Caputo puts it, to make up one’s mind by reason alone.\(^{28}\) Modernity relies upon a series of distinctions, between fact and value, secular and religious and so on, which did not precede but were in fact the invention of, modernity:

Modernity has a powerful sense of jurisdiction, of the need to settle questions of law, *quid juris*.... the moderns have a rigorous set of

\(^{25}\) *ibid*, 247.


\(^{27}\) See also O’Donovan, *op cit*, 241.

\(^{28}\) Caputo and Scanlon argue that modernity is marked by a ‘bracketing’, dating from the 17th century, to make up its mind by reason alone: ‘our wager, the more enlightened we get about Enlightenment, the more likely religion is to get a word in edgewise.’ Caputo, J and Scanlon, M, ‘Apology for the Impossible: Religion and Postmodernism’, in Caputo, J and Scanlon, M (eds) *God, the Gift and Postmodernism*, p2. See also Caputo, J, *On Religion*, pp42-43
boundaries, limits, and proper domains, and they make everything turn on drawing these boundaries neatly and cleanly. They insist on drawing sharp lines between subject and object, consciousness and the external world, science and religion, faith and reason, public and private, rational and irrational.29

This transformation of human reason made man the measure of all things not just in relation to secular or earthly politics but also in relation to God. This is the key to understanding the difference between the liberal separation of church and state and the apparently congruent distinction found in Christianity between temporal and ecclesiastic government. It is also the key to understanding the distinction between secularism and secularisation. The separation of religion and politics involved, as Caputo put it, the invention of religion as a particular sphere of human activity, as a localised place unfamiliar to the encompassing religious rigour of the middle ages. The same separation involved the invention of politics as politics rather than as temporal or ecclesiastic governance. The relegation of religious questions to the ‘private’ realm made way for an over-riding technicity or instrumental rationality in the public sphere. Temporal and ecclesiastic governance had directed humanity to its earthly and spiritual ends respectively. The transformation in human subjectivity as the orientation towards an objective, rational truth transformed each of these realms and ushered in the secularisation thesis: that modernity was marked by ‘disenchantment.’

29 Caputo, J, D, On Religion, pp46-47.
Weber argued that the rationalisation or 'disenchantment' of the modern world proceeded, ironically, from a particular protestant anxiety derived from belief in predestination. \[30\] Unable to obtain the consolation provided by the 'very human Catholic cycle of sin, repentance, atonement, release', the protestant sublimated personal anxiety into activity in a material world now considered to be free of the divinity which Catholicism had attributed to it. \[31\] The Christian becomes a 'tool' of God's will in a world conceived dynamically: 'in Calvinism, good works confirmed a salvation that was already established through predestination, but because no authority could determine or guarantee when or if that status had in fact been attained, there ensues the compulsion to sublimate the consequent anxiety more and more into one's economic vocation or 'calling' in order to demonstrate salvation.' \[32\] The result, post the dissipation of the original religious motivations, is a view of the world as a machine. \[33\]

At least two kinds of rationalism converge to produce what Weber termed the 'iron cage' of modernity. The dominance of scientific rationality in intellectual life and of bureaucratic rationalisation in the administration of the practical world tend to a wide-
spread instrumentalism and an orientation to the norms of efficiency, calculability and standardisation.\textsuperscript{34} In intellectual life, rationalisation was premised on the notion that 'if one but wished one could learn at any time'.

Hence, it means that principally there are no mysterious incalculable forces that come into play, but rather that one can, in principle, master all things by calculation. This means that the world is disenchanted. One need no longer have recourse to magical means in order to master or implore the spirits, as did the savage, for whom mysterious power existed. Technical means and calculations perform the service.\textsuperscript{35}

The rationalization of the public realm proceeded upon the separation of questions of social organisation from questions of the family, the erotic and the emotional. Causal relationships, universal laws of science and questions of technology and efficiency govern the ‘administration of things.’ They do not, however, provide the law-maker or ‘administrator’ with a moral compass. Instrumental and bureaucratic rationality are insufficient to the task of selecting the moral ends to which rational action is directed.\textsuperscript{36}

\textsuperscript{34} Bernstein, J, \textit{Adorno: Disenchantment and Ethics}, pp6-10. Poole, R, \textit{Morality and Modernity}, p47. Poole considers that three conceptions of rationality were at work in Weber’s thesis; instrumental, or means/ends rationality, the formal rationality of the law, and cognitive or scientific reason. The dominant form of rationality in the modern world is, according to Poole, instrumental reason. p36-37.


\textsuperscript{36} ‘To put it another way, if scientific reason demonstrated the non-rational nature of all values, how could it explain the commitment to science? The choice of science as a way of life could not be demonstrated to be any more ‘rational’ than one’s choice of faith’; Poole, R, \textit{op cit}, p 67. See also MacIntyre, A, \textit{After Virtue}, p25, Bernstein, J, \textit{op cit}, pp7-9. Also McCormick: ‘but science unlike religion can provide
The separation of reason from any substantive conception of the good or of God threatens to enslave humanity as technology orients itself to the manipulation of humanity as object. But the effort to restore a substantive conception of the good or of religious value fails and exposes a paradox particular to modernity. The paradox of morality in the modern world ‘is that it lays claim to an objective status which is no longer available to it.’ All substantive understandings of the good are rendered personal and subjective.

Alasdair Maclntyre dates the effort to provide a rational justification for morality to the period 1630-1850. It was during this period that the word ‘moral’ began to refer to ‘that particular sphere in which rules of conduct which are neither theological nor legal nor aesthetic are allowed a cultural space of their own.’ The project of rational justification, says Maclntyre, ‘failed and fails’, leaving modern culture in a state of crisis. Maclntyre describes the modern standpoint on moral value as one

which envisages moral debate in terms of a confrontation between incompatible and incommensurable moral premises and moral commitment as the expression of a criterionless choice between such premises, a type of choice for which no rational justification can be given.

humanity with no substantive meaning. It offers only the emotionally, psychologically and spiritually unsatisfactory means for ‘mastery’ through ‘calculation.’ This mastery entails domination not only of nature but of human beings as well; bureaucracy, itself an ‘animate machine’ in Weber’s estimation, has the potential for unprecedented human enslavement’; *op cit*, p39.

37 Poole, R, *op cit*, p69.

38 Maclntyre, A, *op cit*, p38.

39 *Ibid.* Poole points out that ‘the aspirations of modern science to describe and explain the world imply that nothing in it corresponds to the claims of religion and morality.’ Poole, R, *op cit*, pp 66-69. On Weber and nihilism and his debt to Nietzsche, see Bernstein, J, *op cit*, p6-7.
Modernity is thus characterised by a multiplicity of value-systems of purely subjective validity, which, for that reason, have no claim on and are unrecognizable to the rational-technical state as anything more than expressions of personal opinion. For Weber, the only response to the increasing rationality of the modern world, itself a form of enslavement in which the factory as well as the bureaucracy seek to master both humanity and nature, is to act responsibly by taking personal ethical 'stands.' McCormick considers that, under the weight of such difficulties, Weber's call for a politics of responsibility 'ultimately collapses.'

It was against these contradictions in Weberian social science that Schmitt formulated his critique of the objectivity and technicity of liberalism and the modern state. Schmitt locates the origins of secularisation in the religious wars of the sixteenth century, after which the West had sought a neutral political space in which agreement could be reached and conflict avoided. That decision, to give up theology for metaphysics, then for humanitarian morality, economics and positivism, culminates in the technicity of the twentieth century: the value neutrality of the state machine which connects means to ends but which cannot itself decide on ends. For Schmitt, modernity is marked by a secularisation which neutralises moral substances, producing a world and a state unable

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41 *Ibid*.
to appeal to any objective moral standards. The political nature of decision-making is obscured:

there must no longer be political problems, only organizational-technical and economic-sociological tasks. The kind of economic-technical thinking that prevails today is no longer capable of perceiving a political idea. The modern state actually seems to have become what Max Weber envisioned: a huge industrial plant.

The technical-positivist state is a rational structure without objective ends, neither capitalist nor communist, but a vehicle for each. The predominance of what Schmitt called ‘economic-technical thought’, the abstract, contentless and manipulative orientation to nature, neutralizes all ethical or religious substances and creates a moral vacuum. The indifference of technology and economics to the substance upon which

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43 McCormick, J, op cit, pp 42, 43. Schmitt: ‘Law became power; loyalty, calculability; truth, generally recognized correctness; Christianity, a pacificist group. A widespread confusion and falsification of values governed souls. In place of the distinction between good and evil appeared a sublime division between usefulness and uselessness.’ Cited in McCormick, J, op cit, p43.

44 Schmitt, C, ‘On the Counter-Revolutionary Philosophy of the State’ in Schmitt, C, Political Theology: Four Chapters on the Concept of Sovereignty, p65. ‘Business’ becomes the predominant concern for men who ‘have become poor devils: ‘they know everything and believe nothing.” Business as the superbly functioning means to some pathetic or senseless end, the universal priority of the means over the end, business which annihilates the individual such that he does not even feel his nullification and who thereby does not rely on an idea but at most on a few banalities and always only asserts that everything must go smoothly and without any needless friction.’ Cited in Meier, H, The Lesson of Carl Schmitt: Four Chapters on the Distinction Between Political Theology and Political Philosophy, p3.

45 Meier, H, op cit, p 60.

46 McCormick, op cit, p18.
they act, humanity, leaves rationality 'fantastically warped.'\textsuperscript{47} Weber, Nietzsche and Heidegger had all emphasised this abstract and relative rationalism as a feature of modernity, and tended to view all experiences of the concrete and the qualitative as historical hang-overs or instances of the exercise of subjective will.\textsuperscript{48} The modern antinomies of rationalism and subjectivity are related by Schmitt, however, not as poles of modernity, but as structurally related aspects of modernity.\textsuperscript{49} Modern philosophy is governed by the distinction between subject and object, concept and reality: objects obtain substantive content only through the work of the subject.\textsuperscript{50}

Schmitt pointed to a fundamental incompatibility between liberalism and democracy: liberalism, as a doctrine of the individual, could not form the basis of a political group, and hence of a demos. Schmitt's concept of the political, contra the value neutrality of the technological and neutral state, and the subjective aestheticism of the romantics, is based upon the friend/enemy distinction, and relates, as Meier describes it, to Schmitt's own

\textsuperscript{47} ibid, p27, 43.
\textsuperscript{48} ibid, pp 66-7.
\textsuperscript{49} ibid, pp11, 65. See also Skinner, Q, 'Modernity and Disenchantment' in Good, J and Velody, I, The Politics of Postmodernity, p57.
\textsuperscript{50} Schmitt: '...because the very "structure" of modern thought renders concrete reality irrational, the unrestrained, subjective ego picks out various instances of it and imparts meaning to it; however, this meaning, freed as it is from the confinement of the kind of religious or cultural prohibitions that obtained in the West before modernity, is not derived from any reflective thought process but is basically arbitrary whim. Harmless objects, such as a jewel, a book, a lock of hair, become objects of intense, subjective aestheticization, but so too, do political-philosophical concepts, such as "humanity" by the revolutionary Left, or "history" by the conservative Right.' Cited in McCormick, J, \textit{op cit}, p48. Capitalism and liberalism are thus allied to and are not to be thought of as opposed to romanticism; 'It is only in an individualistically disintegrated society that the aesthetically productive subject could shift the intellectual center to itself'; Schmitt, C, "Political Romanticism", cited in McCormick, J, \textit{op cit}, p65.
political theology, in which revelation, and not reason, is foundational. The political, in this formulation, is authoritative. The political grasps man wholly and existentially, and is evident only in the context of the real possibility of conflict, and most clearly, in the dire emergency: "the political "springs up" wherever two or three have gathered who are bound together by the will to oppose one enemy....the dire emergency identifies and differentiates to the highest degree." Says Schmitt:

The political unit is consequently always, as long as it is at all present, the authoritative unit, total and sovereign. It is "total" firstly because every concern potentially can be political and therefore can be effected by the political decision, and secondly because man is wholly and existentially grasped in political participation. Politics is destiny.

The liberal constitutional state diffuses powers and so obscures the basis of the legal order: the decision rather than the norm. The decisionistic character of the sovereign,

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51 Meier, H, op cit, pp xiv, xv, 26.
52 Ibid, p35.
53 Schmitt, C, 'The Concept of the Political', 1932, cited in Meier, H, op cit p 35. See also O'Donovan, O, The Desire of the Nations, p4. McCormick makes a more disturbing claim concerning the relationship between liberalism, technology and fascism. After theorists of the Frankfurt school, McCormick claims that 'there is a certain fluidity between liberalism, with its insurmountable categorical contradictions, on the one hand, and the phenomenon of fascism, on the other, which may not be an altogether distinct alternative to liberalism, but which itself appears to be the product of, and solution to, liberalism's theoretical-practical impasses.' Central to this dynamic relation between liberalism and fascism was 'technology', conceived not simply as applied science but as a mindset for the mastery of nature, in which the world is merely a machine; op cit, pp 13, 37-38.
54 The state in Schmitt is based on the exception not the norm: 'sovereign is he who decides on the exception'; 'Definition of Sovereignty' in Schmitt, C, op cit, 5. Liberal constitutionalism suppresses the
the capacity to decide the exception, is lost. The liberal constitutional state evades the question of sovereignty and by so doing remains a machine which connects means to ends but which is itself devoid of ethical or substantive content. It suggests no existential knowledge of the kind derived from the friend/enemy distinction.

3. Secularisation as the Transformation of the Sacred.

The secularisation as disenchantment thesis encompasses the notion that there is or should be a separation of church and state and extends to a wider claim about the rationalisation of all spheres of life, including the religious sphere. It goes to the decline as well as to the delineation of the religious sphere. It is based on a particular understanding of human subjectivity as a rational orientation and relation to objective truth. This modernist transformation in the conceptualisation of human subjectivity, already described above by Caputo, had far reaching implications not just for the conduct of politics but also for the supposed fate of the ‘irrational’, including religious belief. There was (and is) an assumption that religion would pass from this world as humanity became progressively more ‘mature’ or ‘Enlightened.’ Recent scholarship has, however,
highlighted the ‘return of the religious’ to the center of contemporary politics and philosophy. Schmitt had himself posited a structural correspondence between secular and theological concepts as early as the 1930’s: ‘all significant concepts of the modern state are secularized theological concepts.’ This was so not only because of their historical development in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent God became the omnipotent law-giver but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these concepts.

55 Gianni Vattimo, for example, considers that a philosophical prohibition on religion has come to an end with the breakdown of the great systems of thought developed in the modern period. He considers that the appeal of religion lies in its ability to speak to needs reason cannot address—‘more than the sense of guilt and sin, the need for forgiveness.’ Vattimo, G, ‘The Trace of the Trace’ in Derrida, J and Vattimo, G (eds) Religion, pp 81, 86. Maurizio Ferraris suggests that a secularized world may wish to hang onto moral and political theology as a means to respond to ‘demands that are ultimately psychological or philosophical.’ Ferraris, M, ‘The Meaning of Being as a Determinate Ontic Trace’ in Derrida, J and Vattimo, G (eds) Religion, p 172. Hent De Vries has described the turn of philosophy to religion, underpinned by the general recognition that religion has not been ‘killed’ by rationalism and secularisation. De Vries postulates a ‘secret alliance’ between dichotomous terms, such as faith and reason, and speculates on their common origin: De Vries, H, Philosophy and the Turn to Religion, p435. See also Aldridge on the ‘new voluntarism’ of Stark and Bainbridge and other recent reformulations of the secularisation thesis, op cit, pp89-122. Also Jorgensen, D, ‘Religion and Modernization: Secularization orSacralization’ in Neusner, J (ed) Religion and the Political Order: Politics in Classical and Contemporary Christianity. Islam and Judaism, pp19-29.

He provided an example of how metaphysics played out into politics in his work *On The Counter-Revolutionary Philosophy of the State*: ‘Every political idea in one way or another takes a position on the ‘nature’ of man and presupposes that he is either “by nature good” or “by nature evil.”’ Schmitt also argued that the concept of the exception in jurisprudence was analogous to the concept of the miracle in theology. More generally, Schmitt also claimed that there was a congruence between widely held metaphysical beliefs and the shape of political systems:

The metaphysical image that a definite epoch forges of the world has the same structure as what the world immediately understands to be appropriate as a form of its political structure.

Schmitt cited Leibniz as one thinker who recognised the link between jurisprudence and theology, as opposed to any link that might have been made between theology and any other branch of knowledge, such as mathematics or medicine. Schmitt cites Leibniz: ‘We have deservedly transferred the model of our division from theology to jurisprudence because the similarity of these two disciplines is astonishing.’ These disciplines shared two principles in common. Firstly, the use of reason, in the form of natural theology and

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59 *ibid*, p37.
60 *ibid*.
natural law. And secondly, the use of scripture, in the form of a written text containing both positive directions and revelations.

These observations bring us to a further understanding of ‘secularisation’, albeit one that is not shared by Schmitt. Schmitt noted a series of structural resemblances or correspondences between theological and secular-political images. He nevertheless argued that modernity was marked by the ‘neutralisation’ of ethical substances. Theology no longer grounded action in a world animated by economic-technological rationality and the subjective and aestheticized romanticism of myth. The liberal constitutional state obscures the question of sovereignty and remains indifferent to any substantive vision of God or the Good, lending itself to an unlimited and potentially perverse range of goals. The sovereign, although bearing the secularised image of the omnipotent God, was invisible until the moment of the dire emergency. The kind of existential knowledge generated by the friend/enemy distinction was not available to the liberal constitutional state.

Schmitt’s observations do however touch on a claim made in more recent times about the absorption of the sacred into the everyday world. On this view, secularisation is not the rationalisation of the world to the exclusion of the sacred, but the secularisation of theological concepts themselves, such that they are no longer thought to make sense only in connection with the divine. Meyer Abrams, for example, writes that process of secularisation ‘has not been the deletion and replacement of religious ideas, but rather the assimilation and reinterpretation of religious ideas, as constitutive elements in a world-
view founded on secular premises. Abrams further commented, in the course of his study of nineteenth century Romanticism, that we remain unaware of the full extent to which characteristic concepts and patterns of...(19th century) philosophy and literature are a displaced and reconstituted theology, or else a secularized form of devotional experience....(we) readily mistake our hereditary ways of organizing experience for the conditions of reality and the universal forms of thought.

Variations of such a thesis have been described as the ‘transposition thesis’, described by Hornig as follows:

62 ibid, p65-66. Marcuse argued that ‘the prevailing state of man is the result of a long historical process in which all transcendental values have been ‘secularized’ and made the aim of man’s empirical life. The happiness he sought in heaven and in purely thought can now be satisfied on earth.’ Marcuse, H, Reason and Revolution, 1960, Boston, Beacon Press, pp268, in Fenn, R, Beyond Idols: The Shape of a Secular Society, p20. Also Max Horkheimer: ‘Behind every genuinely human action stands theology....a politics which does not preserve a theological movement in itself is, no matter how skilful, in the last analysis, mere business.’ Cited in Forrester, D, op cit, p170. Gauchet argues that the radical originality of the modern West is its ‘reincorporation, into the very heart of human relationships and activities, of the sacral element, which previously shaped this world from outside’, The Disenchantment of the World: a Political History of Religion, p3. Howard contends that the development of a secular understanding of time, an understanding, that is, of history existing outside of God’s purposes, owes much to the theological training of the historical scholars of that period. He notes that the German Enlightenment was a profoundly religious movement, aiming not at the dissolution of religion but its transcendental justification and foundation: ‘Might then a secular historical outlook, born in the wake of the German Enlightenment, retain traces, revealing elisions, hereditary marks that betray significant continuities between premodern-theological and modern-historical ways of thinking?’; Howard, A, op cit, pp 3,139.
Secularisation is conceived as the transportation of beliefs and patterns of behaviour from the 'religious' to the 'secular' sphere...the culmination of this kind of secularisation process would be totally anthropologized religion and a society which had taken over all the functions previously attaching to the religious institutions.\(^{63}\)

It is not hard to find examples of such 'transposited' concepts. Teleological schemas once connected to theology have been taken up in social and economic theory. The concept of Progress and Marx's communist eschatology might be considered to be two prime examples.\(^{64}\) Susan Kirscher provides another example of this phenomenon when she draws the link between Christian and psychoanalytic developmental narratives, claiming that the latter is a 'secularized' version of the former. Rather than disappearing, the sacred has become personalized, such that the 'personal ...and interpersonal images have become subtly divinized.'\(^{65}\) At the same time, the sciences, including the human sciences, were invested with the functions and aspirations previously reserved to theology.\(^{66}\)

Caputo's discussion of a religion without religion distinguishes between the institutional structures of the traditional faiths and the capacity of those structures to contain the religious: 'there is an unmistakable tendency to wrest religious phenomena free from the

\(^{63}\) Quoted in Howard, A, *op cit*, p20.

\(^{64}\) See Howard, A, *op cit*, p20.


\(^{66}\) *ibid*, p11. Kirscher also cites David Walsh's argument that the early modern period was 'not a world increasingly separating itself from God, but a world progressively absorbing the divine into itself.' Walsh, D, 'The Mysticism of Inner Worldly Fulfillment' 1983, cited in Kirscher, S, *op cit*, p 30
religions, to reproduce the structure of religion outside the traditional faiths and outside
the classic oppositions of religion and science, body and soul, this world and the next. 67
To speak of a religion without religion means to return to the medieval sense of religion
as virtue, as a rigor of faith or a way of doing one’s duty to God, as opposed to religion as
an institutionalised and hence localised and defined practice. The traditional faiths

provide a critical mass for religious faith, supplying a structural and
institutional embodiment that keeps our religious memories alive, that
undertakes scrupulous and scholarly study of these memories, and that
houses our hopes for the future. They provide an organizing and
humanising power in the daily lives of large numbers of people.

But the traditional faiths nevertheless ‘contain something that they cannot contain.’ 68

For Derrida, a religion without religion is opposed to the great messianic traditions
which lead, inevitably, to war. 69 Such a religion without religion is an opening on to the
wholly Other, and not an institutionalised and closeted conception of the good. Yet
Derrida’s discussion of religion outside of the institutional structures by which it has
traditionally been defined does not always evoke the anarchic appeal of a force opposed

68 ibid, pp 11. 112. See also Beckford, J, Religion and Advanced Industrial Society, p 171. For Beckford, a
secular society is one in which the religious or the sacred is not institutionalized. Religion is best
understood as a ‘cultural resource, the ‘deregulation’ of which is ‘one of the hidden ironies of
secularization.’
69 See also Fenn, R, op cit, p11.
to all rigidity, all order, all finality. Here, Christianity outside of its traditional forms is not simply disruptive but also potentially over-determining. In his discussion of global scenes of forgiveness and reconciliation Derrida refers to the 'globalatinisation' rather than to the 'globalisation' of politics. He makes this distinction to take into account the effect of Roman Christianity which today overdetermines all language of law, of politics, and even the interpretation of what is called the 'return of the religious.' No alleged disenchantment, no secularisation comes to interrupt it. On the contrary.\(^\text{70}\)

Secularised concepts retain the sense of something sacred, as Derrida puts it, 'the inheritance of a theological memory. It is a theological phantasm or concept.' A democracy to come would be brought about by an interrogation or deconstruction of these onto-theological concepts.\(^\text{71}\) Not only are faith and reason not opposed, as

\(^{70}\) Derrida, J. *On Cosmopolitanism and Forgiveness*, p32. 'The globalisation of forgiveness resembles an immense scene of confession in progress, thus a virtually Christian convulsion-conversion-confession, a process of Christianisation which has no more need for the Christian Church'; p31. See also De Vries, H, *op cit*, pp14-15.

\(^{71}\) Derrida notes the surprise with which many have greeted the 'return' of religion to the domestic politics of the modern Western democracies, and to the apparent resurgence of religious fundamentalism around the world: 'Why does it particularly astonish those who believe that an alternative opposed Religion, on the one side, and on the other, Reason, Enlightenment, Science, Criticism....as though the one could not but put an end to the other?' Derrida, J, 'Faith and Knowledge: The Two Sources of 'Religion' at the Limits of Reason Alone' in Derrida, J and Vattimo, G (eds) *Religion*, p5. Richard Fenn has developed a novel argument on the nature of a secular society in which he breaks the rationalist dichotomy between the sacred and the secular. For Fenn, a secular society is not one governed by instrumental reason or by an independent political ethic, but is one which is open to a wide range of possibilities: 'Some of these possibilities are clearly interesting and even exciting, some are filled with the potential for liberation and
opposites, but it is difficult to delimit the religious from the ethical, the juridical, the political and the economic: ‘The fundamental concepts that often permit us to isolate or to pretend to isolate the political- restricting ourselves to this particular circumscription- remain religious or in any case theologico-political.' Nor can one distinguish between the fundamentalism of the East and the religion of the West, for, as Derrida asks, aren’t the wars (or ‘military interventions’) of the West, in support of ‘the best causes’, also wars of religion?

Liberalism and the liberal democratic state would seem to be forever open to the kinds of value-laden politics of which the reconciliation process was but one example. We can disagree as to whether the ‘return’ of religion represents a new awareness of the heritage or the remainder of once great religious systems, or whether these theological ‘phantasms’ still possess their former vitality. To put it another way, whether the religious dynamics of contemporary politics are essentially museum pieces, creatures of

the satisfaction of human desire and aspiration. Other possibilities are more burdensome or fill one with dread. They include a wide range of influences and dangers, threats and disasters, from infection and infestation to invasion and the loss of sovereignty over the self or over one’s society. In their totality they constitute the Sacred, with a capital S. A truly secular society is therefore one that is wholly open to the Sacred.’ Fenn argues that the process of secularisation is not the eradication of religious significance but the destruction of the distinction between the sacred and the profane. Fenn, R, Beyond Idols: The Shape of a Secular Society, pp5-7, 11- 13, 162.

ibid, p25.

ibid. See also Derrida, J, ‘A Discussion with Jacques Derrida’ in Theory and Event, 5:1. John D.Caputo and Michael Scanlon consider that Derrida’s own work on deconstruction is itself structured like a messianic religion, as an opening or welcome to the wholly other; ‘deconstruction is structured like a religion. Like a prayer and tear for the coming of the wholly other (taut autre) for something impossible, like a messianic prayer in a messianic religion’; Caputo, J and Scanlon, M, ‘Apology for the Impossible: Religion and Postmodernism’, in Caputo, J and Scanlon, M (eds) God, the Gift and Postmodernism, p4.
untutored habits, or the manifestation of some deep and abiding human spiritual need, we do not know. For the moment I only wish to make this point; regardless of whether this religious dimension is seen as a residue or as the mark of something more permanent, it renders the traditional distinctions between politics and religion, church and state, public and private, unstable, and to that extent, brings liberalism unstuck (unable, that is, to finally discern and hence to police these distinctions.) The liberal democratic state, far from being the technical scientific apparatus described by Schmitt, is forever open to because it cannot finally identify the religious.

The ‘Secularisation’ of Australian Politics

Insofar as the Australian state can be considered as rational, modern and secular, and consequently as a machine which connects means to ends but which is itself neutral in regards to ends, we can characterise the Australian reconciliation process as a form of political technology. The Australian reconciliation process demonstrates a certain ‘technicity’ in at least two respects. Firstly, as a discursive attempt by the state to perform what Foucault, commenting on the use of Christian technologies of the self, referred to as ‘certain operations and transformations’, on the self-hood of the nation, reconciliation might be thought to have been a supremely technical and rational process for the redefinition of the polity and of its own understanding of itself. Secondly,

74 Fenn, R, *op cit*, pp15-16.
reconciliation might be thought to demonstrate the technicity of the state insofar as reconciliation was aimed at the 'socio-economic' disadvantage of Indigenous peoples. In both cases, the state as machine was morally neutral but lent itself to ends which could have easily have been different, and which might have included such things as 'assimilation', 'self-determination' or some other as yet unimagined project.

It is a commonplace of both Australian political science and of Australian political debate that the Australian Commonwealth is a modern, secular, rational state, even, as Melleuish put it, a 'peculiarly post-Christian' state. But is it correct to assume, as the above analysis assumes, that the Australian state is modern, secular, rational, as simply a machine which operates in the context of society characterised by multiple subjective visions of the good? As a tool for the pursuit of a given but not objective political goal? The 'separation of church and state' does not feature as an unambiguous proposition of the Commonwealth Constitution.

Section 116 prohibits the Commonwealth from making law in respect to the establishment of religion and suggests a separation of the political and the religious realms. The Constitution also prevents the Commonwealth from making any law limiting the free exercise of religion. But section 116 also prevents discrimination on the grounds of religious belief in selection for public office. It was not assumed that the

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76 Section 116 of the Constitution provides that 'The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of
Australian state would be staffed by atheists. The section has nothing to say of the relationship between religion and politics in the states, as opposed to the federal government. Nor does the section expressly apply to the executive as opposed to the legislative power of the Commonwealth.

Section 116 paints a somewhat ambiguous picture of the relationship between religion and the state. These ambiguities became evident in the public debate on John Howard's appointment of then Anglican Archbishop of Brisbane Peter Hollingworth as Governor-General of the Commonwealth in 2001. Concern that the appointment might 'blur the lines' between church and state was trumped by the non-discrimination clause in s116, and, importantly, by the Archbishop's public commitment to stay out of public affairs. The point is, the Australian Constitution prevents the institutionalisation of a state church, without at the same time insisting that reason oppose faith, or that politics and religion be wholly separate. On one reading, it merely establishes a state neutral in regards to the diversity of religious beliefs existing within its jurisdiction. On another reading, and one which has been made of similar sections of the American Constitution, s116 protects organised religion from state intrusion, and does not suggest that the 'public' realm be based on reason alone. Australian High Court judgments are any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.'

77 Only the Tasmanian Constitution provides for freedom of religion. The prohibition of religious discrimination in Victoria, Western Australia, Queensland and New South Wales has legislative and not constitutional force; Maddox, M, *For God and Country*, p106.

78 See O'Donovan on the ambiguity of the First Amendment to the United States Constitution: 'the paradox of the first amendment is that a measure conceived as a liberation for authentic Christianity has become, in this century, a tool of anti-religious sentiment, weakening the participation of the church in society and
equivocal as to whether the section establishes a firm separation between church and state. In Attorney-General (Victoria); Ex rel Black v Commonwealth (1981) 146 CLR 559 the Court ruled that section 116 did not prevent the Commonwealth from providing financial assistance to schools operated by religious organisations. Stephen J considered that the section did not contain 'some broad statement of principle concerning the separation of church and state, from which may be distilled the consequences of such separation.'

The Australian Christian churches were active participants in the politics of Indigenous affairs in the nineties, just as they have been since colonisation in 1788. The manner in which reconciliation replaced Makarrata or treaty, that is, at the suggestion and the lobbying of the Australian Christian Churches in 1988, might be taken to suggest that the ethically neutral machinery of the state adopted a project to which it was neither

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79 (191) 146 CLR 559 at 609. Cited in Butt, P, op cit, p538. See also Gaze, B and Jones, M, Law, Liberty and Australian Democracy, pp 243-322.

necessarily committed nor opposed. These observations may not surprise the political scientist, who by assimilating religious organisations to the category of ‘interest group’ might preserve for themselves a pluralist model of politics in which the National Farmer’s Federation and the Roman Catholic Church sit side by side in the same conceptual basket. No doubt such a model of politics has certain explanatory benefits. It is clear that religious and sectional-economic interests organise both in order to exact benefits or concessions from the state and to alter the terms of political debate in a manner favourable to themselves.

If we accept the conventional understanding of the Australian state as rational and secular we can also formulate some rather generic objections to the Christian dimensions of the reconciliation process. These objections are described as ‘generic’ because no one rejected the reconciliation process because of its Christian dimensions. This might follow from the fact that fewer still identified the process as religious in character, although at least some of the participants, including some Council members, drew an explicit link between their faith and their politics. The failure to identify the reconciliation process as a particularly and peculiarly Christian project was, in fact, one of the great failings of the voluminous literature it generated. If no one had identified the process as Christian in character, how could anyone reject the process as a violation of the cherished liberal principle that religion and politics, as well as the institutions of church and state, ought to be kept separate?
On the one hand, the choice of reconciliation as a principle to structure the relationships between Indigenous and non-Indigenous peoples embodies a value choice, derived from Christianity, for which reason can supply no support. The contestability and subjectivity of value choices leads to the liberal position that the political processes are to embody a procedural rationality, or a theory of right, but are not to endorse a substantive vision of the good. On this view, state endorsement of a Christian value system threatens the freedom of those who do not subscribe to such a world-view. On the other hand, the state's adoption of reconciliation as a framework for public policy threatens the rationality of the state. It is not so much that the Churches have strayed from their properly apolitical role, but that the use of religiously derived concepts frustrates the modernist project of building a perfectly rational public sphere. The moral anxieties of guilt and forgiveness, for example, are conceived of as being a distraction; better to examine the causal relations between Aboriginal 'disadvantage' and socio-economic 'processes' than to engage in a superstitious nonsense productive only of guilt.81

But the observation that the language in which a supposedly secular political process was conducted was Christian in origin and shape upsets this schema and puts a limit to whatever insights may be gained from such an approach. This observation upsets the distinction between the secular and the religious upon which the above analysis rests, and

81 Patricia Williams, referring to an apology motion in the US Congress, wrote: 'I start to twitch when gestures, and essentially religious ones at that, appear in the empty rhetorical spaces created by the abandonment of serious political process. Love! Manners! Good values! Are all supremely attractive attributes in boy or man, but to be blunt, we should expect more than good wishes from the House of Representatives.' Apologising is 'flaccidly nice' and 'too easy'; Williams, P, 'Apologia Qua Amnesia' in The Nation, July 14th, 1997, p10, cited in Yamamoto, E, op cit, p55.
generates another bundle of theoretical questions which cannot be accounted for without also questioning the supposed secularity and rationality of the modern Australian state.

The discourses of Australian reconciliation politics repeated the theological heritage and shape of that term. Reconciliation was more than essentially contested, more than something everyone could support because each understood it differently. Reconciliation was understood differently in the sense that disagreement on what reconciliation meant did not revolve around meanings of that term created ex nihilo. Those disagreements, evident in the public discussion of reconciliation and its relationship to the shape of the Australian political community, repeated a series of tensions or ambiguities in the history of Christian theology relating to penance, apology, forgiveness and unity.

That is, there might be something more than a merely structural resemblance between the forms of contemporary politics and religious ideas, such as between the sovereign state and the omnipotent God, in the language of contemporary Australian politics. Could it be that the language of Australian politics, at least in the period of reconciliation, carried with it some memory of the sacred? A memory evident in ways of talking about the relationship between Indigenous and non-Indigenous peoples in Australia, even if, as is suggested, that language did not, in the end, provide an answer to that question?

Schmitt argued that the liberal democratic and constitutional state had been reduced to the status of a mere machine indifferent to ethical or religious ends. He also pointed to the fundamental incompatibility between liberalism and democracy insofar as liberalism
could not form the basis of a political group, and hence of a demos. The liberal tradition of the rule of law, individual rights and liberty is fundamentally at odds with the democratic focus on equality, identity between governed and governing and popular sovereignty.\textsuperscript{82} The combination between these two traditions in the institutions of liberal democracy does not provide a neat synthesis but only a temporary domination of the one by the other. The combination is paradoxical. Drawing on Schmitt, Chantal Mouffe accepts that democracy always entails drawing a frontier between ‘us’ and ‘them’, between those who belong and those who do not. This principle of identity, and of sovereign and democratic identity, is somewhat at odds with the project of universal human rights inhering in the individual and exercisable against the majority. Mouffe dismisses the attempts by Rawls and Habermas to solve this fundamental tension, criticising Rawls for privileging liberalism over democracy, and Habermas for doing the opposite.\textsuperscript{83} Mouffe’s own project, and the point of her departure from Schmitt, is to recognize the tensions between liberty and equality, or liberalism and democracy, not as a ‘mode of contradiction but as the locus of paradox’:

while Schmitt is right to highlight the different ways in which the universalistic liberal logic is in opposition to the democratic conception of equality and the need to politically constitute a ‘demos’, this does not force us to relinquish one of the two traditions. To envisage their articulation as resulting in a paradoxical configuration makes it possible to visualize the

\textsuperscript{82} Mouffe, C, \textit{The Democratic Paradox}, pp2-3.
\textsuperscript{83} ibid, pp 4,8.
tension between the two logics in a positive way, instead of seeing it as leading to a destructive contradiction.84

Other scholars have pointed to a more intimate but generally unacknowledged link between liberalism and the nation. Margaret Canovan considers the collective identity of the nation to be the unstated background assumption of much modern political thought.85 The liberalism of modern democracy is not the individualism of the universal human subject, but an individualism bounded by the nation. Canovan points to 'Hobbesian truths about the need for a stable body politic before any more ambitious political agenda can be pursued.'86 For example, she cites Michael Walzer's argument that a theory of distributive justice presupposes a bounded world within which distribution can take place.87 Like Mouffe, Canovan points to the tensions between universalism and particularism in the politics of citizenship, immigration and cultural pluralism; a universalist humanitarianism presupposes a particular power base sustained by solidarity, but the maintenance of that power base contradicts the very principles it renders plausible.88

84 ibid, p9.
85 Canovan, M, Nationhood and Political Theory, p2. See also Poole, R, Nation and Identity, p5. Smith likewise argues that the ‘imperative to constitute a people that feels itself to be a people is politically necessary...few if any people can hope to pursue their needs and aspirations successfully in the absence of such bounded political communities. And most people cannot be fully happy unless they live in a political society that they regard as in some sense worthy in itself, as well as supportive of their identities and interests as they understand them’; Smith, R, Civic Ideals, p474.
86 ibid, p14.
88 Canovan, M, op cit, p133. William Connolly draws a darker conclusion from this insight. Connolly points out that from Mill and de Tocqueville through to contemporary liberalism representative
Yael Tamir likewise highlights the conceptual difficulty of reconciling cultural or national diversity and civic unity within the structures of the multinational state. Despite the persistence of certain obvious tensions, however, Tamir argues that the liberal and national traditions are capable of, and are in fact in need of, a reconciliation:

Liberals can acknowledge the importance of belonging, membership and cultural affiliations, as well as the particular moral commitments that follow from them. Nationalists can appreciate the value of personal autonomy and individual rights and freedoms, and sustain a commitment to social justice both between and within nations.\(^\text{89}\)

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\(^\text{89}\) The liberal tradition, with its respect for personal autonomy, reflection and choice, and the national tradition, with its emphasis on belonging, loyalty and solidarity, although generally seen as mutually exclusive, can indeed accommodate one another; Tamir, Y, *Liberal Nationalism*, p6.
The age of the culturally homogenous nation-state, or more precisely, of the image or dream of such uniformity amidst the *demos*, is over. Yet polities characterised by deep diversity cannot do without a shared civic or liberal bond. Tamir's *Liberal Nationalism* is an effort to theorise the relationship between the kind of liberal or civic education that fosters co-operation between diverse sub-national or cultural groups and the legitimate demands of those groups for the recognition of their collective identities and rights.\(^90\)

The assertion that a particular liberal democracy is only possible in the context of a given nation seems to go some way to resolving Schmitt's critique of liberalism: liberalism presumes what Schmitt thought it rejected. On Schmitt's view, liberal democracy, as a rejection of the political, gives way to the political figured as a mythic counter-reaction based on faith or revelation, that which grasps men wholly and existentially. To build on the observations of Canovan and Tamir, we could say that the liberal democratic state is not the merely technical machine envisaged by Schmitt but is in fact situated in particular cultural and linguistic context which gives shape to a *demos* characterised by a peculiar kind of unity. The unity of this liberal *demos* is not characterised by agreement on substantive moral-political issues but by background agreements in forms of life or language that make both agreement and disagreement on those issues intelligible and hence possible.

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\(^{90}\) Kymlicka refers to an emerging consensus in the literature on minority rights and multiculturalism; liberal nationalism: 'According to liberal nationalism, it is a legitimate function of the state to protect and promote the national cultures and languages of the nations within its borders.' The liberal element of such a nationalism is the set of constraints imposed upon the state. A liberal nationalism would not, for example, coercively impose a national identity upon those of other nationalities; *Politics in the Vernacular*, p39.
In the course of the Australian reconciliation process deep historical, cultural and political differences were transcended, at least superficially, in the use of a common language. The differences in the way participants understood reconciliation obscures the fact that those disagreements were intelligible because they occurred in the context of a background agreement in forms of language. It seems ironic then, that reconciliation was a process designed to achieve or which promised to create a future unity, but the background agreement in forms of life or language which made it possible to express that difference constituted a unity that was already here. The participants were strangely united in their shared use of a language which presumed that they were in some respects different, but which nonetheless promised to unite them, in other ways, in the future.91

But the aporetic and prophetic quality of this unity must be noted. If the language of reconciliation provided Indigenous and non-Indigenous with a background agreement in forms of life or language sufficient to render political discussion possible this was not an agreement of the sort sufficient to settle substantive disagreement on the shape of Australia's political and legal institutions. Nor did it settle the question of whether an apology ought to be made to members of the Stolen Generations and their families. I have argued that the liberal democratic state is open to because it cannot finally identify the

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91 Jeremy Webber makes a similar point in relation to the contentious issue of Quebecois secession in Canada. Democratic nations are defined more, says Webber, by their disagreements than their agreements. Not in the sense that democracies are characterised by conflicting parties whose contentions are unintelligible to one another, but that fundamental disputes are conditioned or structured in particular and common ways. The distinctive structure of political disputes in these democracies reflects patterns in public life built out of the terms of public discussion used in those societies. It is for that reason that Webber moves away from the language of nations and nationalism in favor of political communities marked by distinctive terms and structures of "conversation"; Reimagining Canada.
religious. This openness can take the form of appropriation and of manipulation: by the establishment of the Council for Aboriginal Reconciliation (CAR) as through the policy of ‘practical reconciliation’ the state purported to use this language of reconciliation as its own. Its attempt to achieve a reconciliation between Indigenous and non-Indigenous peoples necessarily presupposed a particular vision of what such a reconciliation entailed. But the very idea of reconciliation remains subject to an aporia. To say that reconciliation implied some form of penance or payment or some measure of justice also raised, in the same breath, the need to forget in the name of a common, united future. This aporia at the centre of reconciliation, to forgive on condition of penance or to make a gift of forgiveness, gracious and without condition, is described in the following chapter. For now it is only necessary to note that this aporetic experience is an ‘impossible’ one. Impossible in the sense that it subjects us to a double injunction at once both irreconcilable and indissociable.

This is not to suggest that the liberal democratic state is itself the bearer of some substantive vision of the good, such that state action is limited by immanent principles of moral knowledge or identity guiding action. Nor should this be taken to suggest that the state progresses forward along some teleological path, or, that the aporetic decision

\[\text{\textsuperscript{92}}\text{Justice not a regulative ideal but refers to the singular that must escape all universalisations; ‘the heart of justice aches over these singularities with a kind of biblical justice, rather the way the kingdom of God is concerned more with the one sheep that is lost than the ninety-nine safely grazing in the flock’;}\text{ Caputo, J in Derrida, J, \textit{Deconstruction in a Nutshell}, p135. Derrida argues that the liberal democratic state is, like all polities, founded in violence: ‘All nation-states are born and found themselves in violence. I believe that truth to be irrecusable....the moment of foundation, the instituting moment, is anterior to the law or legitimacy which it founds. It is thus outside the law, and violent by that very fact.’}; \textit{On Cosmopolitanism and Forgiveness}, p57.\]
makes apparent in a way not conceived of by Schmitt the distinction between friend and enemy. But it does suggest a limit to the unlimited technicity of Schmitt’s liberal constitutional state: the liberal constitutional state is not itself immune to an imperative of theological origin now secularised in the language of reconciliation. By committing itself to this process of reconciliation, by using the language of reconciliation as its own in even the most manipulative and cynical of fashions, the state subjects itself to double, contradictory and indissociable injunctions, notwithstanding the separation of church and state, and notwithstanding the dominance of economic-technical thinking in almost all realms of public policy. The task of making the polity work remains but the state cannot for that reason escape this aporetic call. This impossible experience escapes the realm of the politico-juridical relation between state and subject:

if ‘polities’ is what you designate in speaking of ‘pragmatic processes of reconciliation’, then, taking seriously these political urgencies, I believe also that we are not defined through and through by the political, and above all by citizenship, by the statutory belonging to a Nation-State.

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93 As Caputo put it, ‘the work of deconstruction is set in motion, engaged only by a pledge of responsibility, indeed of unlimited responsibility...For Derrida, deconstruction is set in motion by something that calls upon and addresses us, overtakes us (surprises) and even overwhelms us, to which we must respond, and so be responsive and responsible. Endlessly.' Caputo, J in Derrida, J, Deconstruction in a Nutshell, p51. Alternatively, ‘deconstruction is the affirmation of the coming of the other’; ibid, p53. De Vries cites Dostoyevsky, The Brothers Karamazov, to illustrate this theme of an infinite responsibility: ‘All of us are guilty of everything and responsible for everyone in the face of everything and I more than others’; op cit, p435.
Must we not accept that, in heart or in reason, something arrives which exceeds all institution, all power, all juridico-political authority?  

94 Derrida, J, *On Cosmopolitanism and Forgiveness*, p54. See also Derrida, J, ‘Faith and Knowledge: The Two Sources of ‘Religion’ at the Limits of Reason Alone’ in Derrida, J and Vattimo, G (eds) *Religion*: however little may be known of religion in the singular, we do know that it is always a responsibility that is prescribed, not chosen freely in an act of pure and abstractly autonomous will. There is no doubt that it implies freedom, will and responsibility, but let us try to think this: will and freedom without autonomy. Whether it is a question of sacredness, sacrificiality or of faith, the other makes the law, the law is other: to give oneself back, and up, to the other. To every other and the utterly other’; p47.
CHAPTER TWO

THE THEOLOGY OF RECONCILIATION
The Council for Aboriginal Reconciliation Act 1991 does not contain a definition of 'reconciliation.' The CAR itself acknowledged in its final report to parliament that defining reconciliation is an 'inherently difficult' task. The CAR made its vision statement stand in for any precise definition. That vision was of "a united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all." The difficulties experienced in coming to an agreed definition of reconciliation were exacerbated by a desire to avoid, in a 'secular' and 'multicultural' polity such as Australia, the suggestion that the state had adopted a particular religious language as its own, to the exclusion of others. Some participants in the reconciliation process did, however, acknowledge the link between Christian theology and political practice. Rev Bill Hollingsworth, of the Uniting Aboriginal and Islander Christian Congress, felt that "as a Christian I have no choice but to work for reconciliation....I am extending what I do in the church into the wider society." Delsie Lillyst, an Aboriginal employee of the Catholic Education Office, also considered that her support for reconciliation was informed by her Catholic values; "when you look at reconciliation in terms of gospel values, you can't go past reconciliation to be a good Catholic, so to speak." Lillyst considered that reconciliation was not just about 'accepting difference', but also 'the blending...of differences.'

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95 CAR, Final Report: Appendix 3, explanatory notes to Reconciliation Bill, proposed legislation. The CAR had also noted in its first annual report that 'market research' indicated that the concept of reconciliation was 'difficult and abstract'; Council for Aboriginal Reconciliation, Annual Report, 1993-93, www.austlii.edu/au/special/rsiproject/rsjlibrary/car/ar1992-93/


97 Quoted in It's Not Easy Walking in There, p53. Also Graham Paulson: 'the Bible provides a model for reconciliation, a ministry and message of reconciliation, and a motive for reconciliation'... 'the Catholic Church in Australia today is symbolic of the continuing body of Christ and as such should be at the
Norman Habel's book *Reconciliation: Searching for Australia's Soul*, also makes an explicit connection between the Australian reconciliation process and Christian theologies of reconciliation. The Council's vision statement, for example, 'reminds me of the hopes of the biblical prophets who dreamed of a day when all peoples would unite in worshipping God.' Habel, citing Hamilton, argues that the Christian Churches could offer a 'gift' to Australia:

The gift which the church can offer is nowhere clearer than in the theory and practice of reconciliation. In the first place, the church has recognised the symbols of reconciliation and has developed them...while these symbols may be rusty in the contemporary church, they are a rich source for reflection on a symbolically impoverished national life.98

The theological dimensions of Aboriginal reconciliation were also evident to some of those on the 'secular' side of the church-state divide. Senate President Margaret Reid drew a link between Christianity and the reconciliation process in her announcement of government support for the National Centre for Christianity and Australian Culture in 1998: 'one of the most important concepts of the Centres creation will be its focus on

footnote:

reconciliation with Australia's Aboriginal peoples. Then Governor-General Sir William Deane offered a rare insight into the theological dimensions of his commitment to reconciliation in his speech to the Southern Queensland Theological Library. Deane noted that 'the scope of theology obviously includes the relationship between God and man' and that 'that relationship encompasses the relationship between man and man':

That being so, I see the relationship between Australia's indigenous peoples and the nation as a whole as not only raising basic issues of justice and decency. I also see it as one of the most important theological issues confronting us as we approach the new millennium....

In general, however, the references to religion in reconciliation discourse were oblique only. The CAR related to faith groups as it related to other organisations, even as its own political language played on Christian images of healing and spiritual maturity. But it is

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90 The Senator went on to say that Centre would 'provide Australians with a focus on reconciliation, multiculturalism and spiritual expression close to the heart of government, as well as a place to memorialize events and people who shape Australian history'; Senator Margaret Reid, Press Release, 21 September 1998. Sir William Deane also noted that 'central to it (the National Centre for Christianity) is our shared longing for true and lasting reconciliation between indigenous Australians and the nation of which they form such an important part'; Liturgy for Ecumenical Pilgrims to celebrate the 50th anniversary of the World Council of Churches, Canberra, 20 September 1998, www.aph.gov.au online text: 410989
100 Deane continued: 'Hopefully.....(by the bicentenary of federation), the allegorical saga of dispossession by Captain Cook and those who came after him will have been supplemented by a sequel: one in which an Aborigine and a non-Aborigine went forth together throughout the country as friends and equals to overcome injustice and disadvantage and, thereby, understood the true meaning of reconciliation
the contention of this thesis that the Australian reconciliation process shares with a
number of international political examples what Tully has called a background agreement
in forms of life or language.

How can we bring these theological aspects of political discourse to light without at the
same time allowing them to over-determine the inquiry? Or, how to study theology
without becoming a theologian? Australian political science provides few guides for such
a task, although there are certainly some examples to be considered. Gregory Melleuish
has provided one model for the study of religion and politics in Australia. Melleuish first
notes a paradox of Australian political culture: that while Australia is often characterised
as a ‘peculiarly secular and post-Christian’ polity, its political thought is rich in concepts
derived from the Christian tradition.101 Graham Maddox makes the broader point that the
political thought of the West is itself heavily under the influence of Christian notions of
liberty and even prophecy.102 But Melleuish makes the particular point that there has
existed in Australian intellectual life a tradition, admittedly outside the mainstream but
nevertheless apparent, of Christian political thought concerned with issues of value or

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101 Visitors to this country also note its seeming religious peace. William Connolly, an American academic
who spent three months as a Visiting Fellow at ANU’s Humanities Research Centre, described Australia as
‘the most secular country I have yet to visit and the least haunted by religious wars’; Connolly, W, Why I
am not a Secularist’, p ix. Patrick O’Farrell, historian of Australian Catholicism wrote: ‘what is most
significant historically about religion is its weakness...its tenuous and intermittent hold on the minds and
hearts of Australian people’; ‘Writing the General History of Australian Religion’ in Journal of Religious
History, vol 9, no 1 1976, p66.

substance, over and above the general pre-occupation with matters technical.\textsuperscript{103} He identifies a number of nineteenth century intellectuals as having been motivated by ideas of a spiritual, and particularly Christian, nature. He includes in this group John Dunmore Lang, John West and John Woolley. Later intellectuals Melleuish places in the Christian tradition of Australian political thought include Francis Anderson, Ernest Burgmann, B.A. Santamaria and James McAuley. In his book \textit{Cultural Liberalism in Australia} Melleuish describes an Australian liberal tradition, dating from 1880 to 1960, that operated as a compelling critique of mere ‘efficiency.’ Cultural liberalism, embued with a ‘powerful religious dimension’\textsuperscript{104}, aimed to reconcile scientific rationality, civic humanism and the spiritual development of humanity. It had a ‘particular conception of the sacred’: an understanding of ‘culture’ as the means to re-enchant a world stripped of its spirituality by an uncomprehending rationality. It understood humanity as a spiritual and ethical entity.\textsuperscript{105}

But the tradition of Australian cultural liberalism described in Melleuish’s book is now an empty and exhausted one, having lost its vital force around the 1960’s. What are we then to say of the unselfconsciously religious dimensions of an apparently ‘secular’ and contemporary process. Historical, conceptual and biographical investigation of the kind practiced by Melleuish are not enough, on their own, to provide a reading of the

\textsuperscript{103} Melleuish, G, ‘Christianity and Australian Political Thought’ \textit{St Mark’s Review}, Autumn 2000, p24.

Australian reconciliation process which captures the religious dimensions of contemporary Australian politics, especially where the religious is hard to recognize, entangled with the secular, and disruptive of the very distinctions by which we tend to describe it.

There is certainly some scope for adopting a biographical approach to the study of the Australian reconciliation process. Pat Dodson's training as a Catholic priest (the first Aboriginal man to be ordained) opens up one obvious line of inquiry. And there are a host of 'minor characters' who could no doubt have been assembled as something of a cast for such a story. Amongst the third Council alone could be found the following religiously devoted figures: Rev. Djiniyini Gondarra was ordained in Uniting Church; Jenny Mitchell, CWA member, was a licensed lay preacher in Anglican Church; May O'Brien, a stolen child: 'in her youth... became involved with reconciliation on a personal level with God and has devoted her life to this since then'; Democrat Senator John Woodley, a Uniting Church Preacher; Kerry Blackman, from the Gurang People: 'I am a justice leader who stands for truth and righteousness and am totally committed to reconciliation in the Biblical context of building bridges between Aboriginal and non-Aboriginal people....I believe that reconciliation should be based on the three r's: Repentance, for wrongs which must be put right; Reconciliation, to understand the cost or harm done; and recompense, to restore what's been taken.' To this list could be added

105 *ibid*, p101. The University was the New Church, initiating students into the 'mysteries of oneness.'

Culture functioned as a 'quasi-secular version of civil religion which, it was hoped, could provide both the spiritual bonds of social unity and a model of rational behavior'; p58.

Sir Ronald Wilson and Sir William Deane, and no doubt many others. But the weakness of this approach is its inability to explain the way in which reconciliation was expressed as a secular project even by its religious supporters, and conversely, the way in which reconciliation repeated the theological ambiguities of Christian reconciliation even when supported by those of a 'secular' orientation. Clearly, another methodology was required.

Journalist and author David Marr has provided one of the few recent attempts to link contemporary Australian politics to Australian Christianity. His book, *The High Price of Heaven*, is a polemical swipe at the creeping conservatism of the late nineties, especially as manifest in the ideological links between the Howard government and the Christian Right. Marr utilises, or shifts between, two distinct methodologies; between conceptualising the Australian Christian churches as well organized, powerful lobby or interest groups, and a derivative biographical approach that details the formative imprint of Methodism, for example, on conservative leaders such as John Howard. As Marr puts it, Australia is a 'secular country but the Churches remain the most resilient, most respected and the best connected lobby groups in the nation....sin is their business.' He adopts a biographical approach when he turns to the Prime Minister’s controversial politics of race; ‘it all goes back to his Methodist youth.’ Marr highlights the values of sobriety, respectability and hard work, plus the Methodist focus on charity and education rather than justice and restitution, as formative influences on John Howard still apparent in his approach to reconciliation.  

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Whilst Marr's methodological pluralism is to be applauded, this particular combination never seems to stretch quite far enough as an explanatory tool. Marr describes the religious using a secular language of pluralism, interests and conflict. He renders theology or religion in a political idiom which is alien to it and hence misses the significance of theology and religion. Marr uses this secular language to describe religion as an identifiable and localised political force. He locates religion in the churches, as political lobby groups, and in the formative influences of Australian childhoods. But Marr's stated purpose, to disentangle theology from politics, is more ambitious than it seems. The line between the political and the theological or the religious is not easy to discern, even in the 'post-Christian' Australian Commonwealth. For if Marr is to remain true to his methodology, he must, after locating religion as there and not here, identify a place of no-faith, of no-religion. But where are we to find this place? In the gay and lesbian community? Surely not. As every good queer knows, sexuality, even when cast out from the Church, does not obey reason. Nor is it a stranger to the divine.

Marion Maddox has provided a survey of the methodological problems bedevilling the study of the relationship between religion and politics in Australia. She notes that a history of sectarian conflict has 'bequeathed Australian studies the assumption that

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108 ibid, pp 27-28, 30.
109 Caputo on Wittgenstein and language games: 'there are multiple language games, each with its own internal rules of consistency and meaning, each of which serves a different end. On that telling it would be a mistake to try to translate or to reduce one game to the other, to reduce what is going on in a prayer, for example (which clearly belongs to an especially religious language game), to the terms of economics or psychoanalysis. Something would get lost in the translation (namely, the prayer)' On Religion, p65.
discussion of religion and politics means Catholics in the ALP. A large body of literature on the relationship between Catholicism and the Labor split, for example, has featured as part of a more general search for a relationship between religion and voting behaviour. The decline in church attendance and the more general 'secularisation' of Australian culture have rendered this approach next to meaningless. Rodney Smith also points to serious methodological weaknesses in the study of religion and politics in Australia: 'the search for the electoral meanings of Australian religion goes on in fits and starts. Unless such a search is guided by better conceptual tools and evidence, it is likely to continue in the desert for another forty years.'

Maddox urges researchers to move beyond the Catholic-Protestant divide towards a qualitative study of the interaction of faith and politics:

110 Marr, D, op cit, pxiv.
112 Maddox, M, op cit, p3.
113 Maddox argues 'the inherited tendency among political analysts to assume that the religion-politics nexus is best explored by correlating denomination with voting behaviour became becalmed in a series of inconclusive fishing exercises.' Maddox also argues that researchers need to look both ways when studying the relationship between religion and politics; rather than searching for the political effects of fixed religious convictions, we should also consider the possible effects of changes in one's political commitments on one's theological commitments; op cit, pp 3-4, 21-22.
greater attention to the detail of how theological and political considerations fit together in the social consciousness of people from a wide variety of Christian and non-Christian traditions would provide a body of information which could then be drawn on to develop the tools needed to move Australian political science’s understanding of religion beyond what Smith calls its present ‘conceptual underdevelopment, implausibility and contradiction.’

Maddox’s own work is an impressive contribution to that effort. Examining the interplay of religion and politics in the proceedings of the thirty-eighth and thirty-ninth Australian parliaments, Maddox points to the way in which Australia’s ‘apparently secular structure has proved permeable to the sacred’s destabilising residues or influences, which, in every case, have turned out to have significant political effects.’ Those political effects do not exhibit a uniform tendency to the Left or to the Right; ‘instead, ...(they) reflect the dual tendencies of religion, at times investing the hierarchically ordered status-quo with an aura of religious legitimation, at other times challenging existing structure by a special critique from the margins.’ Maddox also points to a change in the meaning of religious

115 Maddox, M, op cit, p10.
116 ibid, p285.
117 ibid. Forrester also points to two quite different modes of religious politicization, one radical and ecumenical, the other conservative, Establishment (Christianity as legitimation of conservative political tradition); Theology and Politics, p53. Gauchet, however, argues that ‘we must completely discard the widely accepted view of religion as an ‘instrument of legitimation’, a view that assumes an unvarying religious function behind its variable content and consequently assumes that through the ages both rulers and subjects hold an identical position with regard to the sacredly established order,’ A Political History of Religion, p50.
statements in late-twentieth century Australia: ‘Rather than statements of shared faith, they provide a way of expressing- and sometimes, resolving- new anxieties and preoccupations.’

Some of Maddox’ concerns are echoed in this thesis. For example, the religious dimensions of the Australian reconciliation process are not easily explained in terms of a dichotomy between Catholicism and Protestantism overlayed onto a further series of dichotomies relating to party and class. Yet, as Maddox points out, the apparent secularism of the process and of Australian politics in general belied a significant Christian dimension which operated both to support and to challenge the status quo.

Rather than tending exclusively to the Left or the Right, the discourses of Australian reconciliation featured a series of tensions regarding political unity and difference, as well as sin, apology, forgiveness and penance, which also marked the theological discourses of reconciliation. This thesis turns to the work of James Tully for a methodology by which these aspects of the Australian reconciliation process might be fruitfully examined. Rather than engage in qualitative research of the kind recommended by Maddox, it considers the shape of theological discourses as one way to understand

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118 Maddox, M, op cit, p 41. David Gill, General Secretary, National Council of Churches in Australia, ‘To Ecumenical Friends’, June 1997, on the 1997 Australian Reconciliation Convention: ‘the piety wasn’t overt. Nobody sang songs or said prayers. But the spirituality was there, just beneath the surface. The language of faith kept intruding into the proceedings because...well, when the going is rough what other language can you use?’

119 Pile and Keith note that despite its unifying teleology, ‘reconciliation’ does not do away with the need for resistance but ‘produces diversely positioned effects which unavoidably complicate the straightforward oppositional arrangement within which resistance has been conventionally framed’; Pile, S and Keith, M (eds) Geographies of Resistance, p205.
how the ideal of reconciliation has structured the debate regarding the shape of
Australia’s legal and political institutions. I also refer to the recent work of Jacques
Derrida on the aporetic nature of the Christian heritage of reconciliation and forgiveness.
In particular, Derrida counterposes two distinct but indissociable understandings of
forgiveness already given to us in that same heritage: forgiveness as a gracious and freely
given ‘gift’ (a forgiveness that can never appear as such) and a qualified and conditional
forgiveness aimed at reconciliation, normalisation and political ‘therapy.’

Tully on Constitutionalism and Wittgenstein

Tully’s project in Strange Multiplicity is to approach contemporary constitutionalism
‘from the perspective of the struggles of Aboriginal peoples (so that) unnoticed aspects of
its historical formation may be brought to light.’ He does so by means of a Wittgenstinian
analysis of the discourses of ‘modern’ and ‘common’ constitutionalism, contrasting the
imperialist aspects of the former to what he describes as the relatively open character of
the latter.120 As he explains it, the method consists of a

survey of the language employed in the current debate over recognition in
order to identify the shared conventions (the distinctions, assumptions,
inferences and assertability warrants that are taken for granted in the course
of the debate) which render recognition problematic and give rise to the

120 Tully, J, Strange Multiplicity: Constitutionalism in an Age of Diversity, pp58-70, 115-139.
range of conflicting solutions. To free ourselves of the hold of these conventions of the age, so that we do not remain blinded by them like Oedipus, a historical survey of the philosophical debates and practical contexts in which they were forged is then carried out.\textsuperscript{121}

This method, derived from Wittgenstein’s ordinary language philosophy, and which also owes something to Foucault’s later genealogical method, aims at a ‘perspicuous representation’ or a ‘clear view’ of the grammar and hence the meaning of a word. As Wittgenstein puts it in section 122 of the \textit{Philosophical Investigations},

\begin{quote}
A main source of our failure to understand is that we do not command a clear view of the use of our words—Our grammar is lacking in this sort of perspicuity. A perspicuous representation produces just that understanding
\end{quote}

\textsuperscript{121} \textit{ibid}, p 35. In \textit{Strange Multiplicity} Tully characterises the contemporary politics of indigenous affairs as a ‘special example of the phenomenon of the politics of cultural recognition.’ That is, Tully locates the political debate over the rights of indigenous peoples as one which goes to the fundamentals of the polity, as a debate not so much about the rights of minority groups within already constituted polities, but as a constitutional dialogue going to the nature of the polity in which those rights, whatever they may be, are enjoyed. Demands for cultural recognition, says Tully, are not just demands for the recognition of the aesthetic or historical significance of certain cultures, but a demand that these cultures be recognised politically, now, in appropriate forms of self-government; \textit{ibid}, pp 3-4. Tully has more recently described the struggle for indigenous rights in the terms of the ‘the struggles for and of freedom.’ The practical problem, as Tully describes it, ‘is the relation between the establishment and development of western societies and the pre-existence and continuing resistance of indigenous societies on the same territory.’ (original emphasis) The challenge is to escape this relation of ‘internal colonisation.’ Tully seeks the conditions under which a just dialogue between indigenous and non-indigenous peoples can be maintained; Tully J, ‘The Struggles of Indigenous Peoples For and Of Freedom’ in Ivison, D. et al (eds), \textit{op cit}, pp37-59.
which consists in 'seeing connections'. Hence the importance of finding and inventing intermediate cases.\textsuperscript{122}

Such a perspicuous representation is not a comprehensive view of language, or the proverbial view from nowhere. Rather, the task of constructing a perspicuous representation proceeds by way of using objects of comparison to 'to throw light on the facts of our language by way not only of similarities, but also of dissimilarities.' \textsuperscript{1}That is, understanding the meaning of a word is not the same thing as being able to give reasons as to why a word should be understood in a particular way. The giving of reasons comes to an end; 'but the end is not certain propositions' striking us immediately as true, \textit{i.e.}, it is not a kind of seeing on our part; it is our acting, which lies at the bottom of the language-game.' Wittgenstein continues, at section 217, 'if I have exhausted the justifications I have reached bedrock, and my spade is turned. Then I am inclined to say: This is simply what I do.' What we take as given is a 'form of life.' \textsuperscript{123}

Nor is the ability to understand the meaning of a particular word the practice of following a rule. Wittgenstein employs the analogy of the sign-post at section 85:

\textsuperscript{122} Wittgenstein develops a novel argument as to the role of philosophy: 'we must do away with all explanation, and description must take its place...the problems are solved, not by giving new information, but by arranging what we have always known. Philosophy is the battle against the bewitchment of the intelligence by means of language:' \textit{Philosophical Investigations}, p27, section 109.

\textsuperscript{123} At section 217, cited in Tully, J, 'Wittgenstein and Political Philosophy: Understanding Practices of Critical Reflection', \textit{Political Theory}, vol 17, no 2, May 1989, pp172-204 at 181. Wittgenstein further remarks, at s289, 'to use a word without a justification does not mean to use it without right.'
A rule stands there like a sign-post. Does the sign post leave no doubt open about the way I have to go on? Does it show which direction I am to take when I have passed it; whether along the road or footpath or cross-country? But where is it said which way I am to follow it; whether in the direction of its finger or (eg) in the opposite one? -And if there were not a single sign-post, but a chain of adjacent ones or of chalk marked on the ground- is there only one way of interpreting them?  

Following a rule ‘correctly’ is not an interpretation of that rule, for, as Wittgenstein contends, whatever I do is, on some interpretation, in accord with the rule; ‘any interpretation still hangs in the air along with what it interprets, and cannot give it any support. Interpretations by themselves do not determine meaning.’ Rather, the ability to use a word is just that, an ability or practical normative ability acquired through participation in language games. Plant adds, ‘it is commitment to practice which is the basis for practical reasoning, not some pure attempt to argue for the incorrigibility of a particular set of propositions as a universal foundation for practical judgment.’

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124 ibid, p194.


126 As Tully puts it, the grasping of a rule is not an interpretation, nor the possession of a theory, ‘but the manifestation of a repertoire of practical, normative abilities, acquired through long use and practice, to use the term and go against customary use in actual cases.’ Tully, J, *Strange Multiplicity*, p106.

Wittgenstein remarks that language is like a picture with the potential to hold us captive; ‘and we could not get outside it, for it lay in our language and language seemed to repeat it to us inexorably.’

Owen links this observation to a Foucauldian analysis of power; the emergence and development of our ways of reflecting on \( x \) are interwoven with the emergence and development of particular forms of conduct and practical identities— and, thus, of how our ways of reflecting on \( x \) have become hegemonic, of how this hegemony is sustained and of the effects of domination that taking these ways of reflecting on \( x \) as the way of reflecting on \( x \) engenders.

Tully argues in *Strange Multiplicities* that modern constitutionalism has obscured our view of an older but arguably less imperialist form of thinking about constitutionalism. He sets out to recover that tradition, which he calls ‘common’ constitutionalism, and to apply it to the politics of Indigenous affairs. The task of this thesis is related to Tully’s enterprise in at least one respect; it attempts to tease out the ambiguities and tensions already present in the Christian theologies of reconciliation. It aims at understanding disputes about the meaning of reconciliation internal to the use of that word. Internal, that

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128 Wittgenstein, L, *op cit*, p48, Section 115. Wittgenstein continues, at section 129: ‘the aspects of things which are most important for us are hidden because of their simplicity and familiarity. (One is unable to notice something— because it is always before one’s eyes.) The foundations of his enquiry do not strike a man at all. Unless that has at some time struck him.— And this means: we fail to be struck by what, once seen, is most striking and powerful’; Wittgenstein, L, *op cit*, Section 129.

129 Owen, D, *op cit*, pp 526-527
is, to the agreement in forms of life or language manifest in the wide-spread use of the term ‘reconciliation.’

Winch has argued that the rules of particular language games are ‘implicit or background “understandings” embedded in practice and shared by all members of the community.’

Plant also argues that many of the themes of communitarian political thought are implicit in Wittgenstein’s ordinary language philosophy. He points, for example, to the communitarian notion of ‘the internal relation of reasons to particular practices and the way in which ideas such as a reason for action have to be linked to a common understanding and a common vocabulary.’ He further remarks that, to the extent that one agrees with Wittgenstein, one must more and more come to regard as defective certain of the central assumptions of liberalism, such as the ‘unencumbered’ self:

Liberal political theory insofar as it seeks to derive some universal reasons for action from the idea of the unencumbered self, agency, a thin theory of the good, all done in abstraction from any particular social practice, is sending language and thought on holiday.

\[130\] Wittgenstein: ‘to imagine a language means to imagine a form of life’; \textit{op cit}, p8, section 18; or ‘the speaking of language is part of an activity, or of a form of life’; p11, section 23; ‘“so you are saying that human agreement decides what is true and what is false?” - it is what human beings say that is true and false; and they agree in the language they use. That is, not agreement in opinions but in forms of life’; p88, no241.


\[133\] \textit{ibid}, p88.
Such a reading might cast Wittgenstein in a communitarian mould. Owen and Tully, however, warn against an overly conservative reading of Wittgenstein’s philosophy of language; there is no single definitive way of using words that could be or is shared by an entire community. The use of words is too varied and tangled to be governed by ‘rules.’ Tully argues that ‘understanding a general term is not the theoretical activity of interpreting and applying a general theory or rule in particular cases.’ The use of particular words may constitute a background agreement in forms of life or forms of language, but the use of a general term in particular or actual language games is always marked by the opportunity to use that term in a non-conventional manner.

But the problems of unanimity, or of reaching what might be thought to approach a communitarian understanding of the good or of justice within a given tradition of thought, are more fundamental even than this. The problem of coming to any final agreement is not simply that different speakers are likely to use the same terms in different ways, or that different ‘language games’ have their own ‘rules’ and hence are not reducible to each other (although this presents a problem for those like Marr who would render the theological in a secular idiom). A more significant obstacle to such an

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135 Tully: ‘it is not only novitiates being inducted into a language-game who may reasonably ‘go on differently’- in continuing a series and so on. Seasoned practitioners, who are all masters of techniques....continue to use the words in slightly different ways and there is no sharp demarcation between normal and abnormal uses or between ‘same’ and ‘different’. Indeed, Wittgenstein’s examples seem set up to show how it is always possible to unsettle in a reasonable way or most settled and convention laden ways of thought. Moreover, it is always possible to attempt to justify a deviant use of, say ‘democracy’, by
agreement is the existence of those deep fissures in language (or, after Derrida, of 'aporias'). These are places where understanding, let alone agreement, is difficult; where language presents for us a problem for which there is no immediate answer. For Wittgenstein such aporias 'have the character of depth. They are deep disquietudes. Their roots are as deep in us as the forms of our language and their significance is as great as the importance of our language.'

A point of difference between Derrida and Wittgenstein emerges here. For Wittgenstein these deep disquietudes are 'problems arising though a misinterpretation of our forms of language.' The task of philosophy is to 'dissolve' the 'problem' by an investigation or description of the language games of which it is composed. For Derrida, these aporias are not soluble but remain the very condition in which a decision must be made. For example, the contradictory logic animating the concepts of forgiveness and of reconciliation is not that of an antinomy, of two imperatives which are merely contradictory. These dual imperatives are also indissociable. The work of exchange, of political reconciliation through a conditional forgiveness, refers 'to a certain idea of pure and unconditional forgiveness, without which this discourse would not have the least meaning.' The two poles are distinct but indissociable elements of the same tradition.

As Critchley and Kearney contend, Derrida's identification of this contradiction or aporia

appeal to an intersubjective warrant that is not, in that context, in doubt and so can function as a ground'.

Tully, J, op cit, 185

136 Wittgenstein, L, op cit, p47, Section 111.

137 Derrida, J, On Cosmopolitanism and Forgiveness, p45.

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'is not staged in order to paralyse political action, but on the contrary, in order to enable it.'

Christian Theologies of Reconciliation

Then Chair of the Council for Aboriginal Reconciliation Evelyn Scott argued that the concept of reconciliation did not bear a particularly Christian shape but emanated from the common spiritual foundations of humanity.

The spiritual part of reconciliation emanates from the hearts and minds - and, if you like, the common spiritual foundation - of individuals of all races and religions. It's not contaminated by politics or commerce or even by the ritual requirements of the various religions. The Arabic community and the Jewish community are among the strongest supporters of reconciliation in this country.

Insofar, as Derrida points out, our concept of forgiveness belongs to an Abrahamic tradition from which all the monotheisms, Jewish, Christian and Islamic are derived, it is true that reconciliation resonates with a common religious tradition that includes the


Jewish and Moslem communities of Australia. But it was apparent that the particular shape, the distinctive resonances and tensions of the process, were most keenly and most readily apparent as variations or as ‘secularised’ equivalents of Christian theologies and practices of reconciliation. The focus on atonement, apologising and forgiveness, for example, bore a particularly Catholic shape, and a good deal of this section therefore focuses on Catholic teaching. It is not my aim, however, to relate particular aspects of the reconciliation process or specific doctrinal debates to theological positions held by various denominations. My aim is the much more modest: first, to highlight some generic aspects of the history, theology and practice of reconciliation, and secondly, to highlight an aporia in that language that is not specific to any of the denominations, but marks the language of reconciliation as a whole.

Theological reconciliation relates to the work of grace and forgiveness which is productive of a unity in both human relations and between humanity and God. Christian theologians have not developed, however, a ready made formula or an applied theology of reconciliation that might be applied to a ‘secular’ political relationship, such as that between Indigenous and non-Indigenous peoples in Australia. This was at least partly because the Christian Churches themselves have failed to develop what might be thought of as an ‘applied’ theology of reconciliation. Reconciliation has traditionally

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141 For example, Petersen writes of reconciliation as a ‘restoration or even a transformation toward an intended wholeness that comes with transcendent or human grace, expresses the result of a restored relation in behaviour…it restores and transforms’; Petersen, R, ‘A Theology of Forgiveness’ in Helmick, R and Petersen, R, Forgiveness and Reconciliation, p13.
been understood as primarily related to the relationship between humanity and God, rather than in terms of social relationships and hence of social responsibilities. Although there has long been an acceptance that reconciliation operates both horizontally and vertically, amongst humanity and between humanity and God, the former has traditionally been subordinated to the latter. A second way in which the Churches have obscured the ‘social meaning’ of reconciliation is almost diametrically opposed to this quietest, introverted stance. The second approach has been, as Volf puts it, ‘to concede tacitly the interrelatedness of social responsibility and reconciliation but then to critique social withdrawal and place the pursuit of freedom and the struggle for justice at the centre of the Christian social agenda.’

142 Volf M, ‘The Social Meaning of Reconciliation’, Interpretation, April 2000 v54(2) p158.
143 See, for example, John Paul II, Apostolic Exhortation on Reconciliation and Penance: Origin and Meaning of the Document, December 2, 1984. John Paul II stresses that vertical reconciliation (with God) must prevail over horizontal reconciliation (amongst humanity) ‘for we know that reconciliation between people is and can only be the fruit of the redemptive act of Christ’ p7. www.cin.org/cin
144 As Volf refers to ‘an almost exclusive emphasis on private morality and an apolitical stance based on the separation of church and state’; ‘The Social Meaning of Reconciliation’, Interpretation, April 2000 v54(2) p158. Shriver argues that the historical roots of this privatized morality run deeper than Volf suggests: individualization of confession in Catholic practice frustrated the ability to conceive of sin as being collective and large scale; op cit, p54. See also Shriver, D, An Ethic for Enemies, pp 51-58; Petersen, R, ‘A Theology of Forgiveness: Terminology, Rhetoric and the Dialectic of Interfaith Relationships’ in Helmick, R and Petersen, R (eds) Forgiveness and Reconciliation, pp4-5.
145 Volf, M, op cit, p54. Petersen also notes a division in modern theological reflection on the work of forgiveness and reconciliation between ‘those who join forgiveness to justification, with a personal and vertical view of salvation, and those who connect it with justice and the search for reconciliation but in language that often moves from transcendence to a prevailing political rhetoric.’ Petersen, R, ‘A Theology of Forgiveness: Terminology, Rhetoric and the Dialectic of Interfaith Relationships’ in Helmick, R et al (eds) Forgiveness and Reconciliation,p5. Cilliers Breytenbach has argued that there has never been a consensus in the way theologians have considered reconciliation, but that theologians have responded to their lived context in terms of different theologies of reconciliation; Breytenbach, C, ‘Reconciliation: Shifts
But the problem is not for any want of theorising. The difficulty of coming to any definitive understanding of what an institutionalised process of political reconciliation might look like lies in the language of reconciliation, whether ‘applied’ or not. The commonality of language that links Canada, South Africa, Argentina and Ireland to Australia is the Christian theology or theologies of reconciliation.\textsuperscript{146} It is within this form of language, the use of which constitutes a background agreement that makes discussion and hence intelligible disagreement possible, that the highly contentious politics of Aboriginal reconciliation has been played out in Australia. The discourses of Aboriginal reconciliation repeated the tensions of that language, such as that between apology and penance, unity and difference, without resolving them. Nor would it be possible to develop an applied theological understanding of reconciliation that might escape those tensions. The language of ‘reconciliation’ did not and could not map out onto the political process in any ready made fashion. To reiterate the Tully/Wittgenstein observation then, we might say that historically the theology of reconciliation has not been linear, unified or determinative of any theological proposition, but has constituted a background agreement in forms of life or language, the context in which and by which agreement as well as disagreement are intelligible and hence possible. It is, moreover, a language which presents for us some ‘deep disquietudes’ or ‘aporias.’ These are problems of

\textsuperscript{146} On international examples of national apology, see Gardiner-Garden, J, \textit{From Dispossession to Reconciliation}, p33.
coming to any final understanding of what reconciliation between Indigenous and non-Indigenous peoples might look like or how it would come about.

Schreiter argues that reconciliation has emerged since the 1980’s as the new mission paradigm of the Christian Churches worldwide, following on from the previous paradigms of ‘expansion’ and ‘accompaniment.’ Expansion characterised the period from the end of the nineteenth century to the close of World War II, and was closely related to European colonialism. ‘Accompaniment’ marked the period from the 1960’s to the 1980’s, and is linked to Liberation theology and solidarity with the Other. Reconciliation, according to Schreiter, is a response to the phenomenon of globalisation and the oppression of the poor.\footnote{147} The theology and practice of reconciliation does of course have a much longer and more tangled history. The language of reconciliation has developed in two related contexts: firstly, in the Biblical texts and in theological discussions thereof, and secondly, in the context of Christian penitential technologies, in particular, the Catholic sacrament of reconciliation or confession. There are several references to reconciliation in the Old Testament, such as in the Second Book of Maccabees, but other concepts, such as expiation and atonement by sacrifice, predominate.\footnote{148} Reconciliation is a creature of the New Testament, and in particular, of Pauline Christianity. The word ‘to


\footnote{148} The New Catholic Encyclopedia, p129.
reconcile' (katallassein\(^{149}\)) is found thirteen times in the New Testament, and all of these references are in the Pauline or Deuteropauline texts. Reconciliation operates in the Pauline texts on three levels.\(^{150}\) Christologically, God reconciles the world through Christ (Romans 5:11). The death of Christ substitutes and atones for the sins of humanity, and marks the beginning of a world that is not merely redeemed, but transformed. Ecclesiologically, Christ reconciles disparate cultures, such as Jew and Gentile (Ephesians 2:12-18). This is a kind of horizontal reconciliation. And thirdly, Christ effects a cosmological reconciliation of all the universe (2 Corinthians 5:11-21).\(^{151}\)

Goldman, following Schreiter, identifies five aspects of Christian teaching derived from the Pauline understanding of reconciliation.\(^{152}\) Firstly, Paul understands reconciliation as the work of God within us, or of the experience of grace, rather than as the result of repentance or forgiveness.\(^{153}\) Secondly, reconciliation is a spirituality, akin to a worldview, rather than a strategy or institutionalised practice. Thirdly, reconciliation transforms victim, bystander and wrong-doer, and makes of them a new creation. Paul articulated a new understanding of the Greek idea of reconciliation, which related to the cessation of hostilities, by linking reconciliation to the notion of transformation. As Paul put it in 2 Cor 5.17, reconciliation produces a 'new creature'; Closely related to Paul's understanding of reconciliation is the new understanding, found in the New Testament, of

\(^{149}\) The *New Catholic Encyclopedia* dates the origins of the Greek word for 'reconciliation' to the word 'other', p129.


\(^{151}\) See also *New Catholic Encyclopedia*, p129.

\(^{152}\) Goldman, G, *op cit*, pp5-6.
redemption. From the New Testament onwards redemption is understood not only as deliverance from physical oppression, such as the experience of Israel in Egypt, but also as the purification of guilt. It is a personal transformation—‘a love that changes the human heart.’ Next, the process of reconciliation is the narrative of the death and resurrection of Christ, and this memory subverts injustice. Lastly, the power of reconciliation is overwhelming, and according to Schreiter, can only be grasped ‘cosmically and perhaps eschatologically.’ This last point suggests that reconciliation is a miraculous gift which exists beyond rational or logical calculation.

This is not to suggest that early Christian theological reflection on grace, forgiveness and reconciliation completely supplanted already existing notions of retributive justice. Early Christian historians, including St Luke, did not cease to look for patterns of divine justice or vengeance in temporal affairs. G.W.Trompf has recently argued that early Christian historiography took up and transformed but did not abandon earlier Hebrew and Graeco-Roman schemas of retributive justice. Nor did early colonial Christians ignore the retributive consequences of corporate sin against the Aboriginal peoples of Australia. Rev. John Saunders, a Baptist, based his sermon of 14 October 1838 on Isaiah 26:21: ‘Behold the Lord Cometh out of his place to punish the inhabitants of the earth for their

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154 Petersen similarly writes that ‘forgiveness is the free and sovereign gift of a loving God as revealed in a relationship best described as a covenant’; op cit, p14.


iniquity: the earth shall disclose her blood, and shall no more cover her slain.' Saunders argued that the colonists had robbed, brutalised and murdered Aboriginal peoples, and that for their sins they stood in danger of Divine punishment:

That the Almighty exercises not only a general providence, but one of a special, and often of a retributive nature, will be evident to every believer in the sacred volume, who are the parties to whom I appeal....this dispensation is more manifest to nations, for as they have a mere civil and temporal being, there is no future state in which they can have a national existence; the nations are judges on earth, they are punished or rewarded on earth.  

The means to avert the Lord’s judgment was repentance: ‘Then it is at once our duty, and our wisdom to humble ourselves in penitence before God. But repentance supposes reformation, and where injuries have been inflicted it involves recompense.' We can see the melding here of retributive logic with the promise of reconciliation through repentance and transformation.

Theological reflection on the nature of ‘reconciliation’ featured prominently at the Second Vatican Council, itself a significant event in the development of Catholic social teaching. Appleby refers to Vatican II as the Roman Catholic Church’s ‘internal revolution’:

in a striking twentieth century revolution, the Catholic Church abandoned its previous claims to political privilege, renounced the theocratic model of political order, and became a powerful proponent of religious liberty and universal human rights.\textsuperscript{158}

Having retained an essentially medieval world-view right up until the 1960's, the Church now became a firm supporter of democratic government. The Council argued that political liberty accrues to groups as well as individuals 'because both human nature and religion have a social dimension.' This evolution in Catholic social teaching, identified by the Council as being at the centre of 'Roman Catholic self-understanding, ecclesiology and pastoral practice', has inspired and legitimated new forms of Catholic social activism. South American liberation theology is the most famous example of these new forms of activism. Appleby cites the legal scholar John Witte Jr:

> Structurally, the Council's policy of decentralization both created new transnational networks in the church and urged initiatives adapted to the local level of the Church's life. The combined effect of these concilliar actions was to impel Catholicism into human rights struggles throughout the international system well into the next century.\textsuperscript{159}

\textsuperscript{157} ibid.

\textsuperscript{158} Appleby, R.S \textit{The Ambivalence of the Sacred}, pp42-49.

\textsuperscript{159} ibid.
The language of human rights, democracy and reconciliation continues to feature as an important part of Roman Catholic social teaching. Pope John Paul II has noted that Vatican II defined the Church itself as a sacrament whose mission was to 'reconcile people; with God, with themselves, with neighbours, with the whole of humanity.' His predecessor Paul VI had described the goal of the Second Vatican Council as being 'to foster whatever can produce union among all who believe in Christ.' The 1964 *Dogmatic Constitution of the Church*, for example, defined the Church as both an instrument and a sign of a very closely knit union with God and of the unity of the whole human race. That unity was instituted by God at Creation: 'in the beginning, God made human nature one and decreed that all his children, scattered as they were, would finally be gathered together as one...though there are many nations, there is but one people of God.' The Church recognises cultural differences, 'insofar as they are good', as an expression of the 'genius' of each people. Clearly though, it is for the Church to decide which aspects of cultural difference are 'good.' It is the Church that takes up difference in order to purify, strengthen, elevate and ennoble it. Christ and the Church are, furthermore, universal, transcending 'every peculiarity of race or nation.' The Church itself is a unity, or one body: 'if one member endures anything, all the members co-

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endure it, and if one member is honoured, all the members together rejoice. The unity of humanity and the unity of the person with God is a divinely instituted order. But it is marred, until the final reconciliation, by original sin. Forgiveness is guaranteed, but sin is likewise certain:

Reconciliation with God, with oneself, and with others implies overcoming that radical break which is sin. And this is achieved only through the interior transformation or conversion which bears fruit in a person's life through acts of penance.

John Paul II, in his 1984 *Apostolic Exhortation on Reconciliation and Penance*, identified a ‘longing for sincere and consistent reconciliation’ amongst the peoples of the world. That longing was experienced as the need ‘to heal the wounds and establish at all levels an essential unity.’ That unity had been marred by sin found ‘in man’s inmost self.’ The reconciliation to be achieved could not be any less profound than the division to be overcome- it had to be a response to sin, itself the root of all other wounds. It fell to Church to make known this truth, and to assert the ‘profoundly religious meaning of reconciliation and its full scope.’

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164 ibid, p7.
165 ibid, p4.
166 ibid, p1.
167 ibid, p4.
Personal transformation is seen as making possible a unity amongst individuals, as the pre-requisite for ‘reaching brotherhood, concord and peace at all levels and in all sectors of human society.’ John Paul II referred to ‘obstinate discord.....between groups within the same nation’ as a ‘sin against the common good.’ Social sin constituted a ‘direct attack upon one’s neighbour.’ It is committed collectively, but should not be seen as a pure contrast to personal sin such as to abolish individual responsibility- there is corporate and individual sin at the same time, not one in the place of the other. The notion that ‘structures, systems or other people’ could excuse the individual from personal responsibility ‘can readily be seen to derive from non-Christian ideologies and systems. Real responsibility...lies with individuals.’

John Paul II turns to the example of Jesus in reference to the ‘law of forgiveness....on these conditions...it is possible to have a true reconciliation between individuals, families, communities, nations and peoples.’ Reconciliation brings a unity premised on the forgiveness of past sins. The most worrying aspect of reconciliation theology, however, is the suggestion that forgiveness, and hence reconciliation, is easy or cheap. Christ guarantees forgiveness. Luke 17:3, for example, cites the example of Jesus in this way: ‘if your brother repents, forgive him; and if he sins against you seven times in the day, and turns to you seven times and says, “I repent”, you must forgive him.’ Does this mean that forgiveness and reconciliation are possible without restitution? Or that a

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169 ibid.
170 ibid, p16.
171 ibid, p26.
172 ibid.
wrong-doer is always already forgiven? Volf argues that such a concept of reconciliation as ‘cheap’ currently dominates public discourses on inter-group conflict:

One speaks of ‘national reconciliation’ and expects from it ‘collective healing’ and greater ‘political unity’, or conversely, fears that behind it lurk organic notions of the social ‘body’ and the centralisation of power. Stripped of its moral content, reconciliation is contrasted so starkly with ‘justice’ that one has to weigh the relative values of ‘justice’ and ‘unity’ in order to assess to what extent the sacrifice of justice can be morally acceptable and politically desirable in order to achieve political unity.173

Goldman argues that reconciliation is ‘not a hasty process’, that it is not characterised by the too soon forgetting of sin. He claims that ‘those who call for forgetting are actually participating in the ongoing victimisation of the person: they are really saying (the) other’s experience is not important.’174 Desmond Tutu also writes that ‘true reconciliation is not cheap. It cost God the death of his only Son.’ He argues that ‘confession, forgiveness and reparation, wherever possible, form part of a continuum’175 The First

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175 Tutu, D, No Future Without Forgiveness, pp 218, 22. Tutu was Anglican Archbishop of Capetown, Metropolitan of the Anglican Church in Southern Africa, Nobel Peace Prize Winner and Chair of the South African Truth and Reconciliation Commission. See also Budden, C, Reconciliation, Celebration and Aboriginal People: Five Bible Studies on Issues Raised for the Australian Christian Community in 1988, p31. Yamamoto warns against ‘cheap reconciliation’: to ask for reconciliation before justice is to ask the oppressed to become reconciled to ‘the intolerable crimes that are committed against them. That is not
Nations Alliance Churches of Canada also understands reconciliation as a costly business. Referring to the Old Testament story of the three year famine during the reign of David, the Alliance argues that the sinner must ask *the victim* what is required for reconciliation: "that reconciliation only comes at a cost is supremely demonstrated in the ultimate reconciliation, between God and humanity, which required the physical death of God's Son to bring it about." This formulation arguably misses the point that the suffering of Jesus was vicarious, that if this was a price to be paid for salvation it was one made in a curious, perhaps perverted, bargain. But the point is clear enough; it is possible to understand reconciliation as requiring a penance, moreover, as requiring some kind of suffering, on the part of the wrong-doer.

Volf relates the 'social meaning' of reconciliation to the new understanding of grace and justice developed by Paul after his conversion experience on the Road to Damascus. Reconciliation is to be understood primarily in terms of the 'vertical' relation between humanity and God but should also be considered in terms of the 'horizontal' relationships between believers on Earth. By way of contrasting different understandings of justice, Volf compares Paul's initial righteousness, his desire to punish and persecute the Christians in the name of the Lord, to a new understanding of justice in terms of forgiveness and grace. Volf cites Seyoon Kim

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Christian reconciliation, it is sin." Yamamoto describes justice as the 'transcendent idea that connects love...with genuine peace.' *Inter-racial Justice: Conflict and Reconciliation in Post Civil Rights America*, pp 159, 161. Also Petersen, R, "A Theology of Forgiveness" in Helmick, R and Petersen, R, *Forgiveness and Reconciliation*, pp13-15.

it is most likely that Paul's use of the metaphor of reconciliation grew out of his own theological reflections on his Damascus road experience. For on the Damascus road, Paul, who came to see himself as God's enemy in his activities before Damascus, experienced God's reconciling action, which brought forgiveness of sins and the making of a new creation by his grace.  

Justice is, on this formulation, subordinate to grace. Injustice is affirmed and transcended rather than forgotten in the act of divine forgiveness; 'Grace and forgiveness...do not stand in opposition to justice and blame, but affirm justice and blame in the act of transcending them.' The idea of forgiveness necessarily implies an affirmation of justice and is therefore not a substitute for justice: 'Forgiveness is no mere discharge of a victim's angry resentment and no mere assuaging of a perpetrator's remorseful anguish, one that demands no change of the perpetrator and no righting of wrongs. On the contrary: every act of forgiveness enthrones justice; it draws attention to its violation precisely by offering to forego its claims.' Turning to the conversion experience of Paul, Volf highlights the new understanding of righteousness evident in the New Testament. Rather than righteous punishment of the enemy, the new notion of reconciliation involves a turning to the enemy in a spirit of love and forgiveness which is not, at the same time, a 'cheap reconciliation.' The act of forgiveness involves a naming by which wrong-doing is recognised:

The divine voice named the action by its proper name; 'persecution' (Acts 9:4). Disapproval of the action was powerfully conveyed—Paul 'fell to the ground' (v.4). And the exalted Christ asked the uncomfortable question 'Why?' 'Saul, Saul, why do you persecute me?' (v.4). Jesus Christ named the injustice and resisted the behaviour.  

Volf points to the distinction between this new understanding of reconciliation and older understandings of righteousness and retribution: 'though justice was an indispensable element of reconciliation, peace between Paul and the speaker of the divine voice was not the consequence of justice carried out, but of justice both affirmed and unmistakably transcended in an act of undeserved grace.'

The Cross is a symbol of both solidarity and absolution. Jurgen Moltman explicates this dual and apparently contradictory symbolism: Christ suffers with, identifies with, the poor, the oppressed, the weak. But the Cross is simultaneously a symbol of *atonement,*

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180 ibid. Volf also writes that 'since “justice” is impotent in the face of past injustice, reconciliation is ultimately possible only through injustice being forgiven and finally, forgotten. The act of forgiveness will name injustice as injustice and therefore demand that its causes be removed; the act of forgetting will be possible only after the threat of repeated violation has disappeared. Yet the demands of “justice” will have to remain unsatisfied. Embrace can only take place beyond “justice”'; p224. Volf points to the need to reshape the concept of justice as being only possible in embrace of the the triune God where ‘we find redemption and experience perfect justice.’ Volf, M, *Exclusion and Embrace,* p225.
181 Moltman, J, ‘The Spirit of Life’, 1991, p130. Cited in Volf, M, *Exclusion and Embrace,* p22. Paul VI described this kind of preference for the poor when he said, ‘may all who are weighed down with poverty, infirmity and sickness, as well as those who must bear various hardships or who suffer persecution for justice’ sake- may they all know they are united with the suffering Christ in a special way for the salvation
or as Volf puts it, of ‘divine self-donation for the enemies and their reception into the eternal communion of God.’ The symbolism of ‘the Cross underscores that evil is irremediable’, cutting against the modernist thrust towards final peace, the final solution. This is not a contradiction, but an ‘asymmetrical dialectic’ between the grace of self-donation and the demand for truth and justice. Rather than a mission of ‘inclusion’ (a word that resonates with the grand narratives we tell ourselves about the emergence and teleology of the advanced Western democracies), Volf argues that Jesus’ mission was one of ‘grace.’ There is a scandalous aspect to this mission: sinners are subjects of grace as much the sinned against, and all, not just the wrong-doer, are called to repent, and to be transformed.


182 Volf, M, *op cit*, p23, original emphasis.

183 *Ibid*, p29. Habel also notes this dual symbolism: ‘the story of Jesus in the Christian scriptures is as much about liberating the social oppressed as it is about forgiving spiritual sins’; *op cit*, p21.

184 Volf, M, *op cit*, pp 58, 73, 82. Victims need to repent because ‘social change that corresponds to the vision of God’s reign- God’s new world- cannot take place without a change of their heart and behaviour’; p114.
Reconciliation as Spiritual Practice:

Christian Technologies of Guilt and Forgiveness

Aside from larger doctrinal issues regarding unity, sin and division, the theology of reconciliation has developed in the context of penitential practices and institutions dating back to the time of the early Christians. These penitential practices repeated on an individual level the narrative of unity, sin and reconciliation which was thought to characterise the relationship between humanity and God. The sacrament of penance or confession also goes, for this reason, by the name of ‘reconciliation.’ Tentler relates Christian penitential practices to both the production and the consolation of personal guilt: they exercised a discipline over the faithful, and at the same time they met the need for consolation such disciplinary regimes produced. The rituals worked their discipline over those in power as well as the laity, for, as Tentler puts it, those who administered the system were the most ‘explicitly subject to its regulation.’ Brooks also notes the intersection of confession, dogma and inquisition in the canons of the Fourth Lateran Council. Canon twenty one, *Omnis utriusque sexus*, mandated annual confession for the faithful. Canon one, *Firmiter credimus*, defined, for the first time, the orthodox teachings of the Church, whilst the third Canon, *Excommunicamus et anathemizamus*, established

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185 See Goldman, G, *op cit*, p3. John Paul II also points out that each of the Catholic sacraments is ‘also a sign of penance and reconciliation’; John Paul II, *op cit*, p28, [www.cin.org/cin](http://www.cin.org/cin)


187 *ibid.,* pxx.
the Catholic Inquisition. Confession, true belief and inquisition intersect, in the canons of Lateran IV, to produce a complex of truth, consolation and discipline.\textsuperscript{188}

Ernst Troeltsch has described the sacrament of penance as ‘the great support for the spiritual domination of the world’; ‘as self-examination and direction of conscience, as absolution, and as the key to a whole system of satisfactions and merits, as the unification of all ethical problems and inconsistencies by the authority of the Church.’\textsuperscript{189} Foucault, commenting more generally, highlights the complexity and effectiveness of religious practice as a disciplinary tool:

Historically, what exists is the Church. Faith, what is that? Religion is a political force....it is a superb instrument of power for itself. Entirely woven through with elements that are imaginary, erotic, effective, corporal, sensual and so on, it is superb.\textsuperscript{190}

The contribution of Christianity to sexual ethics, for example, is not to be found in its advocacy of certain principles of monogamy and abstinence, themselves already widely practiced in the Roman world, but in the new techniques it developed for the imposition of that morality. That new mechanism was the pastorate; ‘a category of individuals

\textsuperscript{188} Brooks, P, \textit{Troubling Confessions}, p93.

\textsuperscript{189} Troeltsch, E, \textit{op cit}, p233.

absolutely specific and singular...who in the Christian society play the role of pastor, shepherd in relation to others who are their sheep or their flock.'\textsuperscript{191}

Pastoral power individualised. It aimed at the salvation of each person, and for this reason, was a mode of surveillance. The pastor, if he was to carry out his responsibilities properly, must know what each was doing, and what was happening inside each soul, and for this reason elicited an 'exhaustive and permanent confession.'\textsuperscript{192} The individual was also required to perform this saving work on himself, to be constantly searching his own soul, and to be perpetually obedient to the pastoral power. Foucault refers to as 'technologies of the self' those

techniques which permit individuals to effect, by their own means, a certain number of operations on their own bodies, on their own souls, on their own thoughts, on their own conduct, and this is a manner to transform themselves, modify themselves, and to attain a certain state of perfection, of happiness, of supernatural powers and so on.\textsuperscript{193}

\textsuperscript{191} Foucault, M, 'Sexuality and Power', in Carrette, J, \textit{op cit}, p121.
\textsuperscript{192} \textit{Ibid}, p125. See also Tentler, T, \textit{op cit}, p110.
\textsuperscript{193} Foucault, M, 'About the Beginnings of the Hermeneutics of the Self', in Carrette, J, \textit{op cit}, p 162, ; 'maybe our problem is now to discover that the self is nothing else than the historical correlation of the technology built in our history'; p181. Foucault also writes of the confession as a 'ritual discourse in which the speaking subject is also the subject of the statement....a ritual in which the expression alone, independently of its external consequences, produces intrinsic modifications in the person who articulates it: it exonerates, redeems and purifies him; it unburdens him of his wrongs, liberates him and promises his salvation'; \textit{The History of Sexuality, Vol One}, p61.
The confession is a discursive ritual which promises and seems to effect a liberation (from sin, misunderstanding etc) but which is in fact imbued with relations of power:

for one does not confess without the presence (or virtual presence) of a partner who is not simply the interlocutor but the authority who requires the confession, prescribes and appreciates it and intervenes in order to judge, punish, forgive, console and reconcile.194

The Christian confessional technique was developed as a disciplinary tool in the monastic and ascetic orders, but by order of the Fourth Lateran Council of 1215, was extended, at least in principle, to all believers. The rhythm of confession was accelerated in the Reformation and Counter-Reformations.

The pastoral technique was taken up and utilised in medicine and science, and applied to human sexuality, became one of the supports for a politics of bio-power, itself connected to human health and reproduction.195 In demography as much as sexology and psychiatry, the Christian pastoral technique elicited an exhaustive confession:

we have since become a singularly confessing society. The confession has spread so far and wide. It plays a part in justice, medicine, education, family

195 *ibid*, pp23-25.
relationships, and love relations, in the most ordinary affairs of everyday life, and in the most solemn rites.\textsuperscript{196}

Western man, said Foucault, has become a 'confessing animal.' The technique was now so thoroughly ingrained in society that the individual no longer experienced the obligation to confess as an effect of a power that constrains, but on the contrary, saw in confession the truth of the self. Rather than appearing as an effect of a particular confessional technology, this personal truth appears as though it 'demands only to surface.'\textsuperscript{197} Brooks claims that the confessional model, which he describes as a ritualised performance productive of a potentially infinite guilt, is now so deeply embedded in western culture as to span the divide between believers and non-believers: 'even those whose religion or non-religion has no place for the Roman Catholic practice of confession are nonetheless deeply influenced by the model.'\textsuperscript{198}

\textsuperscript{196} ibid, p59.

\textsuperscript{197} Foucault writes: 'the obligation to confess is now relayed through so many different mechanisms, is so deeply ingrained in us, that we no longer perceive it as the effect of a power that constrains us; on the contrary, it seems to us that truth, lodged in our most secret nature, "demands" only to surface', ibid, p60.

\textsuperscript{198} John Paul II, for example, relates the practice of confession to spiritual liberation: the first step in reconciliation is the acknowledgment of one's own sinfulness; 'to acknowledge one's sin...to recognise oneself as being a sinner, capable of sin and inclined to commit sin, is the essential first step in returning to God'; John Paul II, \textit{Apostolic Exhortation on Reconciliation and Penance: Origin and Meaning of the Document}, December 2, 1984, p13, \url{www.cin.org/cin}.

\textsuperscript{198} Brooks, P, \textit{op cit}, p2.
Lenman argues that the effectiveness of these penitential rituals was undermined by two factors. The institutional weakness of the church in some areas meant that its reach was insufficient to include all of its flock in any regular, supervised, penitential regime. Secondly, and perhaps more fundamentally, Lenman argues that the personalisation and privatisation of sin ran against the strong current of corporate responsibility amongst medieval peoples, many of whom had ‘an ingrained tendency to think in terms of communal self-purification rather than individual penance.’ There were also great doctrinal difficulties, even prior to the reformation, regarding the workings of the sacrament of reconciliation. The dual role of penitential rituals, as both the source and consolation of guilt, complicated the effort to provide any clear formulation on the workings of penance.

Tentler points out that the literature on penance and reconciliation, consisting of popular and doctrinal tracts, is not reducible to any ‘neat and narrow theology.’ There was a diversity both of language of conclusions in regards to several issues, including the relationship between personal contrition and the workings of sacramental grace. Nevertheless, the literature in question belongs to the same doctrinal tradition, and the desire to be orthodox has been productive of at least a broad consensus, or a background agreement in forms of life. Furthermore, the explanation of what occurred between priest and penitent to produce divine mercy had to occur within the Augustinian theology of

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200 Tentler, T, op cit, pp xiii, 233-235.
both grace and freedom. The concepts of free will and providence set boundaries for the theologians, but these boundaries were themselves in need of reconciliation.

Four elements have persisted throughout the history of these ‘rituals of forgiveness’:

1. Sinners must feel sorrow for having sinned.

2. They are to make some kind of confession of their sins or of their sinfulness.

3. They have assumed, or have had imposed upon them, penitential exercises of some nature.

4. And they have participated in an ecclesiastical ritual performed with or by priests who have the power to absolve them of their sins and to reconcile them with the body of the faithful.

‘Canonical penance’, a publicly endured and sometimes arduous ritual, developed in the western Christian churches in the period from the second to the seventh century AD. A formal ceremony, usually the laying on of hands, inducted the sinner into an order of

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201 ibid, p296.
202 For example, John Paul II identified contrition as ‘the essential act of penance, on the part of the penitent’, John Paul II, op cit, p29, www.cin.org/cin
203 Tentler, T, op cit, p3.
penitents, who fasted, gave alms, and were publicly humiliated, before being received back into the community of the faithful by means of a second public ceremony. Penitential practice did not then involve a simple remission of sins, but was the entry of the penitent into a particular condition. Although reconciled to their community, the penitents were permanently disabled; depending on their particular sin, they might be barred from entering the clergy or the military, or from participating in public affairs. There was a uniformity of such practices amongst the western churches between the fifth and seventh centuries. Foucault cites the Didascalia, a document recording the teachings of the twelve apostles written in the third century, as a description of this kind of public penance. He notes that the Didascalia does not describe a public and detailed statement of sins committed but rather tells of a 'collective right in which each one recognises himself as a sinner before God.' The penitential practices themselves, which might involve acts of austerity and manner of dress, were primarily non-verbal. The verbal analysis of sins, by way of confession, came later.

The modern institutions of Christian forgiveness derive from the penitential practices developed in Ireland in the sixth century AD. These practices are known as the 'penitentials', after the popular genre of short manuals that classified sins and told priests what specific penance to impose for each particular sin. The system reached the continent by about 600, and was spread there by Anglo-Saxon missionary monks. It was dominant in the western Church by the tenth century AD. In contrast to the canonical system,

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205 See also Brooks, P. *op cit*, p94.
206 Tentler, T. *op cit*, pp9-10.
the penitential ritual was a private relation between the priest and the penitent. Furthermore, it left no harsh disabilities, and involved no public shaming. That is not to say that penance became essentially symbolic—early penitential manuals, such as the Roman Penitential, included harsh punishments for some sins. Perjurers endured seven years of penance, usurers three years. Penitential exercises included fasting, long periods of asceticism, worship and charity. The fundamental shift was not so much in the character of the penitential punishment, but in the movement, as Tentler describes it, 'from a penance of shame and expiation...to a penance of guilt and remorse.' Brooks describes the transformation in penitential ritual as the move to a verbal transaction, involving a detailed articulation of sin by the confessant, met by the confessors performative absolution; 'I forgive thee.'

The acceptance of death-bed confession by Pope Leo the Great in the fifth century had long term consequences for the theology of reconciliation. St Leo, arguing that 'no one is to be despised of while he still lives in the body', had implicitly recognised that contrition, and not the performance of penance, was the most important element of reconciliation. This point was commonly argued by the twelfth and thirteenth centuries, and left open the question, what is the role of the priest, or of the sacrament itself?

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207 ibid, p52.

208 Brooks, P, op cit, p94. Tentler notes the change in terminology, from the deprecatory 'May God forgive you' to the indicative 'I absolve you' from the 13th century; Tentler, T, op cit, p281.


210 *The New Catholic Encyclopedia* states that reconciliation between man and God is possible even in the absence of the sacraments. Such a reconciliation is possible where there is a '(supernatural) act of contrition perfected by charity...provided this act contains at least the implicit desire (votum) of the sacrament'; p130.
Penitential exercises were the link between the old and new systems, recalling the asceticism of the canonical system. But the exercises themselves became increasingly symbolic, to the point that the act of confession was itself seen as a penance. There was a general concern that heavy penances might overwhelm a penitent, and it was thought that no one should be made to accept a penance they did not want. To not complete a penance, however, was to commit a mortal sin. This led to the practice of separating penance into an obligatory, lenient component, and a more arduous, but voluntary component.

More rigidly defined and enforced was the requirement that the penitent make restitution in this world to the victims of his sin. This requirement was enforced by the canon law, and guilty parties were subject to its requirements in both public and in conscience. A murderer, for example, might be required to pay to his victims family the value of the deceased's future potential earnings. Financial restitution was also to be made for loss of property, earnings and reputation. Divine forgiveness could not be assured until such restitution had been made. A similar logic animated the thought of Bartolome de la Casas, Bishop of Chiapa, who in 1546 argued that the Spanish conquistadors had sinned against the Indigenous peoples of South America, and that penance required the restitution of land and goods. Haren details the relationship of confession and reconciliation to the payment of monetary restitution in the realm of ‘commercial’ sins in

211 Tentler, T. _op cit_, pp16, 320-324.
212 _ibid_, p337.
213 _ibid_, pp340-343.
214 _ibid_, p367.
the 14th century English penitential, the *Memoriale Presbiterorum*. The development of a money economy in the 12th and 13th centuries had lent a special relevance to this matter of administering penance. Medieval canon lawyers imposed controls on the use of wealth and trade, seeing in commerce an opportunity for sin, and extending the influence of the church into areas now properly thought to be within the preserve of the state.\(^{215}\)

The Thomist view of the sacrament of reconciliation as consisting of three parts (contrition, confession and acts of satisfaction) was confirmed as orthodox by the Catholic Church at the Council of Florence in 1439.\(^{216}\) That view remains the orthodox Catholic view today. The leaders of the Reformation, however, contested this view of the sacrament, and in some cases, denied the sacramental quality of reconciliation altogether. Luther, for example, drew on the work of the Franciscans and Duns Scotus in his criticism of the Catholic sacrament.\(^{217}\) Whilst Luther accepted that reconciliation was a sacrament, he asserted that complete contrition was humanly impossible, and that reconciliation must therefore consist in the free action of God, which was effective whatever the state of mind of the penitent.\(^{218}\) Shriver points out that for Luther the divine forgiveness of personal sin was *assured*.\(^{219}\) Neither contrition nor works of goodness or satisfaction were efficacious elements of the sacrament. Luther also asserted that confession must always remain free, and that the Church could not require the faithful to


\(^{216}\) Thurian, M, *Confession*, p23.

\(^{217}\) *ibid*. Doctrinal disputes about the nature of salvation are almost as old as Christianity itself. For example, St Augustine attacked the Pelagians for making salvation depend only on the effort’s of the self, thus excluding the grace of God; Connolly, W, *Identity/Difference*, p127.

\(^{218}\) Thurian, M, *op cit*, pp25-26, 28.
confess. For Luther the practice of confession was however consistent with a good Christian life. He saw in the practice of confession an effective means of personal consolation.\textsuperscript{220}

Calvin likewise valued the personal consolation provided by the practice of confession, but denied that reconciliation was a sacrament.\textsuperscript{221} Calvin’s understanding of the nature of a ‘sacrament’ has of course been contested from the sixteenth century to our own, and it is not my place to enter that debate here. The point that I wish to take up is that made by Max Thurian, that although Calvin attacked the Catholic sacrament of reconciliation and warned against superstition and magic, he nevertheless affirmed the practice of personal confession to a pastor as a means of obtaining personal consolation and spiritual direction. Like Luther, Calvin considered that penance consists in absolution, which is the work of God, and not on the quality of personal contrition.\textsuperscript{222} Good works are a sign and not a payment for mercy freely given by God. The promise of God, and not reparation, was essential to absolution. As in Luther, Calvin considered that it was impossible to

\textsuperscript{219} Shriver, D, \textit{An Ethic for Enemies: Forgiveness in Politics}, p53.

\textsuperscript{220} See also Tentler, T, \textit{op cit}, pp349-360; (For Luther) ‘absolution is an objectively unconditional offer of forgiveness. It requires nothing for its validity beyond what has already been given in the sacrifice of the Cross and the promise attached to it’. Troeltsch likewise notes that for Luther the practice of confession is the means of conveying to the penitent the objective assurance of absolution; \textit{op cit}, p483. Quentin Skinner notes that Luther emphasised man’s complete unworthiness and took up the Augustinian emphasis on man’s fallen nature. Skinner also points out that Luther attacked Thomist and humanist accounts of God as a rational law giver. For Luther, God was both revealed in the Word, and hidden and incomprehensible; Skinner, Q, \textit{The Foundations on Modern Political Thought, Vol II: The Age of Reformation}, pp3,5.


\textsuperscript{222} Thurian, M, \textit{op cit}, pp30-38.
provide full satisfaction for sins committed against God. He did suggest, however, that it is necessary to make amends for one’s sins to others.

Troeltsch notes that it is commonplace to categorise the Protestant Reformation as a revival of Pauline and Augustinian ‘grace’ at the expense of a particularly Catholic concept of ‘law.’ Troeltsch argues, however, that what was at stake was a new concept of grace itself. Catholic grace was sacramental, mystical, miraculous, hierarchically imparted and entrusted to the Church. For Luther, grace is a temper of faith, a divine conviction or spirit, as Troeltsch puts it, faith or trust in the ‘loving will of God which brings with it the forgiveness of sins.’ Sacramental mediation is replaced by mediation through the Word. This grace is not an achievement, but a gift.

The difference between predominantly Thomist Catholic and reformed Christian understandings of reconciliation as penitential practice relates, on the one hand, to sacramentality, personal contrition and penance, and on the other, to an already given and unpurchasable gift of forgiveness. In the Thomist understanding of reconciliation confession, contrition and penance combine, in the appropriate ritual, to effect forgiveness. In one sense this is a difficult or demanding model of reconciliation; it requires this kind of painful or guilty confession and the doing of some penance. But

\[\text{Troeltsch, E, op cit, pp}467-8.\]
\[\text{ibid, p481. Petersen argues that a juridical and sacrificial view of atonement survived Luther’s emphasis on the forgiveness of sins. Nevertheless, ‘the Protestant Reformation and Roman counter-reformations stimulated simultaneously in the church a recovery of the term forgiveness and thoughts about its practice, although this often occurred in more pietistic-oriented circles, apart from the institutional churches’;}\]
nevertheless it provides some kind of formula or guarantee of forgiveness, available, in
theory, to all. The reformed understanding of reconciliation as penitential practice aimed
merely at consolation, and which considered that forgiveness and salvation were the work
of God, and related solely to absolution, likewise seems to be an 'easy' model of
reconciliation. Forgiveness is the gift of God, given freely. But applied to concrete
problems of political justice this model of reconciliation leaves everyone at sea, for there
is no knowing, in this schema, who are the elect and who are the damned. Forgiveness
might be easy, but there is, paradoxically, no guarantee that all will be forgiven, no recipe
or ritual which effects reconciliation sacramentally, only the hope, and the anxiety, of
divine absolution.

This is, in a sense, expressing the matter far too reductively. Reformed Christianity is not
a stranger to an economic understanding of reconciliation, at least in so far as the practice
of confession is concerned. Tell me your sins, and you shall be comforted, released from
anxiety, unburdened. Notwithstanding that each taught that the forgiveness of sins was a
divine prerogative, truly a gift, Luther and Calvin both affirmed this aspect of the practice
of confessing as spiritual relief. Conversely, Catholic tradition is also alive to the thought
that the death and resurrection of Christ achieved not just a miracle in the shape of the
bodily resurrection of Christ but a gift of forgiveness from God to humanity surpassing
all calculation and all human understanding; 'forgive them, for they know not what they
do.' Even here, at the point of what seems like a pure gift, is not quite an unconditional or
uneared salvation. Christ dies, sacrificed for man, suffering vicariously in an inverted or

Petersen, R, 'A Theology of Forgiveness: Terminology, Rhetoric and the Dialectic of Interfaith

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perverted model of exchange; I will die for you, so that your sins will be forgiven. But nevertheless, there is the idea, in Catholicism as in Reformed Christianity, of mercy, of forgiveness without explanation or exchange.

So the picture is more complex and more difficult than the above discussion suggests. But this rough schema of Catholic sacramentalism and of the Reformed understanding of forgiveness and absolution as a divine and unpurchaseable gift does map out, if only for simplicity's sake, onto the poles identified by Derrida as 'irreconcilable but indissociable' elements of the Abrahamic tradition. This aporia in the heritage, which Derrida describes as a heritage shared by all the religions of the Book, and for that reason describes as Abrahamic rather than as simply Christian, is the very condition in which a decision must be made. Derrida writes of 'this conditional logic of the exchange...according to which forgiveness can only be considered on the condition that it be asked, in the course of a scene of repentance attesting at once to the consciousness of the fault, the transformation of the guilty, and the at least implicit obligation to do everything to avoid the return of evil.' And opposite this economy of exchange, another idea; 'the idea which is also a demand for the unconditional, gracious, infinite, aneconomic forgiveness granted to the guilty as guilty, without counterpart, even to those

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225 Derrida, J, On Cosmopolitanism and Forgiveness, p45.

226 Derrida writes of these two poles as 'absolutely heterogeneous, and must remain irreducible to one another. They are nonetheless indissociable: if one wants, and it is necessary, forgiveness to become effective, concrete, historic; if one wants it to arrive, to happen by changing things, it is necessary that this purity engage itself in a series of conditions of all kinds (psycho-sociological, political etc). It is between these two poles, irreducible but indissociable, that decisions and responsibilities are to be taken'; ibid, pp44-45.
who do not repent or ask forgiveness.' What does it mean, asks Derrida, 'to inherit when
the heritage includes an injunction at once double and contradictory?' The way in
which this aporia animated the Australian reconciliation process is the story of chapters
four and five of this thesis.

ibid, pp34-35. See also De Vries, H, op cit, pp25-31. Also Caputo, J, on the aporia of the gift in Derrida,
J, Deconstruction in a Nutshell, pp 141-148.
CHAPTER THREE

ABORIGINAL AFFAIRS IN THE NINETIES:
FROM TREATY POLITICS TO
RECONCILIATION AND BACK AGAIN
Reconciliation had its institutional beginnings in 1991, the year the Commonwealth parliament unanimously passed the Council for Aboriginal Reconciliation Act. That Act established the Council for Aboriginal Reconciliation as an independent body charged with the responsibility for promoting better community relations. Specifically, that meant educating non-Indigenous peoples about Indigenous culture and the history of Indigenous/non-Indigenous relations in Australia. The beginnings of reconciliation can also be dated discursively: when were earlier projects, such as assimilation, given up in favour of new ones? This is not to assume that a discursive change is always a clean break; the taken for granted concepts of one discourse might well be the product of an earlier project. And this is true for reconciliation, which has been a discourse in which many older policy debates have been repeated. Reconciliation rests upon the development of two exclusive subject positions which were the product of 'self-determination' and between which citizens must choose; Indigenous and non-Indigenous. In fact, the entire project of reconciliation could be seen as the attempt to relate in an appropriate way these two subject positions bequeathed to it by an earlier public discourse of Indigenous affairs. Self-determination seemed to head logically towards 'separatism', 'separate development' and 'sovereignty'. Reconciliation might be said to be an effort to contain

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228 For example, Rowse argues that indigenous peoples are now 'being asked to be self-determining within the social forms bequeathed by an era of assimilation.' White Flour, White Power, pp 10, 218, 221. See also Hughes, I, Self-determination : Aborigines and the State in Australia, Phd Thesis, University of Sydney, 1997; 'since the foundation of the state in Australia Aboriginal Affairs policies have been characterized by contradictions....rather than resolving contradictions, successive phases of policy have incorporated contradictions within themselves, providing the conditions for later policy shifts'; p50.
those tendencies by relating Indigenous to non-Indigenous by means of the unity of Australia, a subject position in which difference is made to make sense.\textsuperscript{229}

The Hansard of 1991 carries the seeds of later acrimonious debates. Michael Wooldridge's comments on the undefinability of reconciliation and the Liberal Party's preference for the practical would later be echoed by John Howard's repudiation of the symbolic enterprise of reconciliation historiography. But we can look back as well as forward, and see how the Coalition carried on its earlier policy commitments and reshaped them in the language of reconciliation. The resistance to special rights, the desirability of 'One Nation', the jurisdictional supremacy of the Australia State- all of these pre-1991 commitments were at home in reconciliation. Then Minister for Aboriginal and Torres Strait Islander Affairs Robert Tickner was also looking backwards in time when he said that the beginnings of reconciliation were to be found in the 1967 referendum.\textsuperscript{230} That referendum deleted the two negative references to Indigenous peoples in the Australian Constitution, effectively allowing Indigenous peoples to be counted in the census (the deletion of s127) and removing the inability of the Commonwealth to legislate in respect of Indigenous peoples (the amendment of s51

\textsuperscript{229} Pearson: 'Canada and Australia were nationally reconstituted by the state as multiculturally unified through difference, with New Zealand seeking to take a similar route to a bicultural destination. Homogeneity and assimilation seemed to have been superseded, and for those members of the dominant majority supporting an unfettered cultural pluralism, a radical uncoupling of settler nationalism is envisaged in post-settler times. But this position, currently, has neither unqualified elite nor mass support. There is still an emphasis on 'core' national values, and strict limits to sovereign authority and the boundaries of cultural acceptance.' Pearson, D, \textit{The Politics of Ethnicity in Settler Societies}, p175.

The 1967 referendum is more properly characterised as being concerned with issues of citizenship and equality, and in that sense, was a species of liberal assimilationism.231 The legal significance of the referendum has been widely exaggerated, but the sheer size of the ‘Yes’ vote, at over ninety percent nation-wide, has sanctioned a widespread myth that 1967 marked the year in which Indigenous peoples were finally given ‘full citizenship.’ In fact the Commonwealth was reluctant to exercise its powers until the election of the Whitlam government and, it might be said, for most of the time since then. The race power has since been interpreted by the High Court as authorising the Commonwealth to legislate for the detriment of Indigenous peoples.232

Tickner’s assertion has, despite the anachronism, been widely taken up by both Indigenous and non-Indigenous commentators. But the most blatantly revisionist narrative of reconciliation came from the CAR itself: ‘The story of reconciliation really starts when Britain established its colony at Sydney Cove on the twenty-sixth of January 1788.’233 There is some textual support for such an assertion, although CAR does not

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231 Rowse argues that ‘assimilation was a program of inclusion of indigenous Australians and it presumed and urged their ultimate sameness. The 1967 referendum did not challenge assimilation, but rather expressed and reinforced the values of inclusiveness and sameness.’ The mandate claimed was nevertheless ‘potently equivocal. Two distinguishable conceptions of social justice were endorsed in May 1967:’ Justice as equality of treatment confirmed the assimilationist thrust of the Menzies government, an alternative concept of justice singled out indigenous peoples as a ‘special case’ for whom temporary ameliorative measures were needed. Rowse, T, Obliged to be Difficult, pp 11,21.


cite it. Arthur Philip made at least two references to reconciliation in his letters. And Arthur Robinson, a preacher in Van Dieman’s Land, undertook a government sanctioned ‘conciliation’ mission prior to the Governor Arthur’s Black War. John Batman, signatory to an early and unauthorised treaty with the Aboriginal peoples living around the Port Philip area, also made ambiguous use of the term ‘reconciliation.’ The emphasis in Philip, Robinson and Batman is on reconciling Indigenous peoples to the presence of the new arrivals. Philip’s ‘reconcile’ was a reference to the desirability of socialising the local Aboriginal population to European ways of living. Robinson’s mission was a strategic means of making settlement safe by removing Indigenous peoples from their land. An evangelical mission of salvation was compatible with a governmental interest in security. Reconciliation ‘as advanced by Batman and others was entirely one-sided; much more than the cessation of hostilities, its purpose was to achieve the expulsion of the Aborigines from their tribal territories, albeit by persuasion rather than by force.’ The contemporary reconciliation project, despite its focus on history, guilt and justice, might be said to share that earlier compatibility with the interests of the settler-state, at least in

234 Griffiths cites Governor Phillip’s letter to Lord Sydney, 10 July, 1788; ‘when I shall have time to mix more with them, very means shall be used to reconcile them to live amongst us, and to teach them the advantages they will reap from cultivating the land....’ Griffiths also cites Phillip’s letter, again to Lord Sydney, of 12 February 1790; ‘not a native has come near the settlement for many months, and it was absolutely necessary that we should attain their language, or teach them ours, that the means of redress might be pointed out to them if they are injured, and to reconcile them by showing the many advantages they would enjoy by mixing with us.’ Griffiths, M, Aboriginal Affairs: A Short History, pp21-22. Beryl Timberry Beller also referred to the meeting of Bennelong and Captain Watkin Tench as an example of reconciliation: ‘Welcome to Country, Corroboree 2000’, Walking Together, no 29, August 2000.


236 See Campbell, A, John Batman and the Aborigines, p37.
so far as reconciliation operates as a counter discourse to the demand for Aboriginal 'sovereignty.'

We need to move much further forward to find the beginnings of the Aboriginal reconciliation process. The first references to reconciliation in academia came from C.D. Rowley in 1972. Rowley's major work, *Aboriginal Policy and Practice*, was published in three volumes in the early nineteen seventies. He wrote of the need for Australians to undertake a 'patient attempt at reconciliation and negotiation' with Aboriginal people, entailing 'an admission of colonial guilt' and 'apologies to the Aborigine who is still here and stronger than before.' Reconciliation was not, however, the guiding or even dominant theme of Rowley's work. Rowley employed an historically conditioned distinction between 'tribalised' or remote Aborigines and detribalised, part-Aboriginal 'fringe-dwellers.' This distinction made *Aboriginal Policy and Practice* something of an awkward bridge between assimilationist or integrationist policy and the new concern with autonomy or self-determination. Awkward in the sense that the distinction between remote and urban Aboriginal is by no means taken for granted as an

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237 *Aboriginal Policy and Practice* examined the historical conditions of colonisation, as well as the contemporary aspects of indigenous life in both urban and remote Australia. It laid out some of the policy ideas and concerns later taken up by the Whitlam and Fraser governments, including problems of Aboriginal autonomy, socialisation and leadership, legislation to facilitate the formation of Aboriginal companies and incorporated bodies and new 'community development' programs. In that sense *Aboriginal Policy and Practice* is an important part of the development of self-determination.


239 Rowse refers to Rowley as committed to a 'sophisticated assimilationism' or a 'assimilationist liberalism'; *After Mabo: Interpreting Indigenous Traditions*, p34.
appropriate distinction by contemporary policy makers, nor is it accepted as legitimate by advocates of pan-Aboriginal political strategies.

But *Aboriginal Policy and Practice* does share a common concern with reconciliation politics, at least in so far as Rowley recognised the fundamental importance of history to the resolution of contemporary social and political problems. Concern for the welfare of Indigenous peoples, where it did exist, was but ‘a widespread and inexplicit breast-beating’ uninformed by historical knowledge. Rowley set out to fill the historical ‘vacuum’ that had made the formulation of adequate policy near impossible. Historical awareness was connected not just to good policy but also to the wider question of Australian national identity; Rowley linked the success or failure of Aboriginal affairs policy, to ‘the kind of society which eventually takes place in Australia.’ Volume Three, *The Remote Aborigines*, developed these themes further:

There may still be time for a reconciliation between two traditions. If the ‘white’ community is well on the way to ‘developing’ the country, there still remains the question of what life is all about...For the Aborigine who has retained something from his Dreaming has retained something unique for the enjoyment of nature in this country, if only we can develop the humility to learn from him how to share it; and what it meant to Australians through the millennia before Europeans saw it.

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241 ibid, p340.
Rowley suggested that

it may be more logical to recognise that a great wrong has been done, and to work now for reconciliation, and for equality of general economic opportunity....from now on Aborigines will have the moral initiative. A major and symbolic national rejection of earlier policies is required. Even economic demands express a feeling that governments should offer symbolic compensation, as a basis for reconciliation.\textsuperscript{243}

The connection between Australian history and identity, as well as the motif of the land and the notion of white Australia finding its authentic spiritually in dialogue with Indigenous peoples, would all take on great significance in the politics of reconciliation two decades later. \textit{Aboriginal Policy and Practice}, although undoubtedly time-bound in its concerns, particularly in regards to ‘integration’ policy, is also a work of great foresight in so far as it takes up the themes not just of self-determination but also of reconciliation.\textsuperscript{244}

The first parliamentary reference to reconciliation in the context of Aboriginal affairs came from the then Minister Ian Viner in 1980. Commenting on the Noonkabah conflict in Western Australia, Viner described the difficulties which would render ‘the necessary

\textsuperscript{243} \textit{ibid}, p178.

reconciliation, the necessary accommodation' impossible. He offered no reflection on what a reconciliation politics might look like, or on the relationship between reconciliation and history, or justice, or healing. The concerns which would later come to dominate reconciliation discourses were wholly absent. Viner's comment seems to have been largely off-handed, and his use of the term reconciliation implied no program, no specific commitment to any type of public policy in regards to the relationship between Indigenous and non-Indigenous peoples in Australia.

A more elaborate reconciliation discourse emerged with the election of the Hawke Labor government in 1983. Or rather, a more confused use of the term 'reconciliation' spanned a number of policy areas only one of which was Aboriginal affairs. Industrial relations and foreign affairs were two policy areas in which the language of reconciliation featured. And in regards to the direction and style of the new Labor government as a whole, the mandate claimed, on the back of Robert Hawke's reputation earned at the ACTU as the 'great conciliator', was one of national consensus, reconstruction and reconciliation.

Aboriginal Affairs Minister Clyde Holding, speaking to a motion detailing the government's new policy program in 1983, applied the Hawke meta-principle of reconciliation to his own portfolio. The motion recognised the prior

245 Hansard, 1980, vol 119, p38; cited in Griffiths, M, op cit, pp193-4. For an account of the major legal developments in Aboriginal affairs in the period 1972 through to the Mabo decision in 1992 see Chesterman, J and Galligan, B, Citizens Without Rights: Aborigines And Australian Citizenship, pp194-222. The authors conclude that advances in civil and political rights have 'been more theoretical than practical...the slow recognition of indigenous rights has not translated into material improvements in the life situations of most Aborigines.'

246 Hawke identified the 'great national goals' of his government to be 'national reconciliation, national reconstruction and national recovery'; Hawke, R, May 3, 1983, Hansard, p90.
ownership of Australian lands by Indigenous peoples, noted the link between historical dispossession and present socio-economic disadvantage, and proceeded to lay out a comprehensive program of policies designed to address that disadvantage. Holding considered the government’s new policy to be the beginning of a program of reconciliation which would extend beyond the life of any particular policy, and in the context of which particular policies and measures would operate:

The principles of reconciliation can and must be clearly established by 1988. Effective reconciliation between pre- and post-colonial Australia can be expected, if we begin now, to take until the end of the century, but it will bring real benefits for the nation as a whole.\(^{247}\)

Here is the first programmatic use of the term reconciliation in respect of Aboriginal affairs policy in the Australian parliament, and it is at this point that reconciliation politics might be said to have begun. But it was also something of a false start: the principles of reconciliation which Holding sought to establish by 1988 were elusive, and little attempt was made to define them. There was, in addition, a divergence in the manner in which the term reconciliation was used. Both government and opposition conceived of reconciliation in several distinct senses, the most important differences for present purposes being reconciliation as a principle to be applied in a specific policy area, and reconciliation as a principle of bipartisanship between Labor and Coalition in the parliament, and between the federal government and the states. It became unclear as to

whether it was the political parties themselves that were to be reconciled, or whether the
government ought to pursue policies in furtherance of reconciliation between Indigenous
and non-Indigenous Australians regardless of the stance of the opposition, or of the states.
Clyde Holding, for example, juxtaposed the link between a treaty and ‘justice’ to the
requirements of parliamentary and inter-governmental reconciliation:

no one should be in any doubt. Although this is a Government of national
reconciliation and although we shall seek harmony in our relations with the
States, the demands of Aboriginal people for justice will no longer be
denied....the human rights of Aboriginal and Torres Strait Islander
Australians must take precedence over states rights.’

The Coalition, however, clearly conceived of reconciliation as a principle to be
maintained between government and opposition, as well as between the Commonwealth
and the states. Commenting on the *Aboriginal and Torres Strait Islander Heritage
(Interim Protection) Bill 1984*, J.R Porter claimed that Holding had ‘sought through
confrontation to implement an inflexible and unrealistic predetermined set of principles
without consultation or reconciliation.’

Paul Everingham, Country Liberal member for
the Northern Territory, made a similar claim when he described the governments’
decision to hand back Uluru to its traditional owners as a ‘knife thrust that wounds the
heart of every Australian’:

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248 *ibid.* p3490.
As a result of the legislation there was to be a trade-off by both sides, but the Minister for Aboriginal Affairs, almost immediately on assuming office, forgot about reconciliation and consensus and threw the 10-point package out the window.²⁵⁰

Parliamentary debate on the governments' national land rights proposals revolved around the opposing poles of social justice and national responsibility on the one hand, and the requirements of federalism on the other. Senator Peter Baume of the Liberal Party explained Coalition opposition to national land rights in terms of his party’s commitment to states rights in a federal polity.²⁵¹ National land rights did in fact founder upon the opposition of conservative state premiers, particularly Labor’s own Brian Burke, Premier of Western Australia. Burke, under pressure from mineral and energy concerns, had threatened to mount a High Court challenge to the government’s preferred legislation.²⁵²

²⁵² Bennett also notes that the federal Liberal party had moved back into a closer, more conservative alignment with the states by the mid-eighties. The Howard election manifesto of 1987, for example, had abandoned the Fraser government’s commitment to self-management and promised ‘effective consultation mechanisms so that Aborigines are drawn into the broader community rather than segregated into a racial lobby group’; White Politics and Black Australians, pp 63-64, 69. Labor MHR Warren Snowdon also noted the growing tendency of the Opposition to use the Senate Estimates Committee as a ‘star chamber’ from which to discredit the accountability of indigenous persons and organisations. Snowdon argued that such a tactic was a deliberate effort to undermine popular support for the government’s policy by appealing to base racist emotions; November 8, 1988, House Hansard, p2563.
By 1987 the Hawke government had all but abandoned its pretence of being a government of national reconciliation. Reconciliation no longer applied as a principle of inter-party dialogue and co-operation, or as an adjunct to federalism. The field of its application had been narrowed so that by the time Gerry Hand released his Ministerial Statement *Foundations for the Future*, reconciliation was a term applied almost exclusively to Aboriginal affairs. The centre-piece of that statement was the creation of a new Aboriginal and Torres Strait Islander Commission (ATSIC), an experiment in self-determination that sat oddly within the structures of responsible government.\(^{253}\) Whilst the Opposition now accepted that reconciliation was a goal to be pursued between Indigenous and non-Indigenous peoples, it did not consider that *Foundations for the Future* was in any sense a policy statement incorporating that principle. In regards to the preamble to the Aboriginal and Torres Strait Islander Commission Bill, Liberal MHR Chris Miles argued that ‘there is no focus on reconciliation. It focuses on the past and then talks largely in terms of compensation.’ Miles pointed out that the Coalition, although supportive of the concept of reconciliation, did ‘not believe in talking about compensation (for dispossession).’ Attempts to address Indigenous disadvantage would follow from, rather than be part of, the process of reconciliation:

Before there can be genuine progress in this area of Australia, there needs to be a recognition by both Aboriginal people and non-Aboriginal people of a deep desire to work together and to be reconciled about our history. There are deep hurts, and there needs to be reconciliation. Before we start to

\(^{253}\) For example, see Rowse on ATSIC’s role in post-Mabo intergovernmental negotiations; *Obliged to be*
address the needs of the Aboriginal community, which are indeed large, I believe that we should at least attempt a reconciliation at the hearts and minds level.\textsuperscript{254}

That reconciliation was a mind-set oriented towards the future, or an 'ideology of forgetting' as Colin Tatz put it, would come to be something of a mantra for those conservatives who did not want to be seen to be opposed to reconciliation but who were uncomfortable with its revisionist history.\textsuperscript{255} Miles acknowledged that history had indeed left its wounds but there was to be no compensation for a history of dispossession. Quite the opposite: an antagonism born of history was now the reason to defer steps taken to address the needs of the Aboriginal community. There is in Miles's statement the beginnings of a shift away from reconciliation as justice or as a framework for policy, in the sense described by Holding in 1983, to reconciliation as a spiritual enterprise, or 'a reconciliation at the hearts and minds level.'

1988 was the year in which the Australian Christian churches made their most decisive contribution to the development of Australian reconciliation politics.\textsuperscript{256} The heads of fourteen churches had released a booklet entitled 'Towards Reconciliation in Australian Society' in early 1988 in which they called on the Commonwealth parliament to pass a motion in support of reconciliation. The booklet had supplied the full text of the motion, and the Australian Catholic Bishops sent their Aboriginal affairs adviser, Father Frank

\textsuperscript{254} Miles, C, 10 December 1987, \textit{House Hansard}, p 3161

Brennan, to lobby parliamentarians for support. Labor and the Coalition offered in principle support but were unable to agree on a particular form of words. In May, August and December the parties debated various motions with neither side willing to make any significant concessions. In August Prime Minister Hawke moved the motion in the form suggested by the church leaders.

Hawke claimed that a ‘real and lasting reconciliation’ between Indigenous and non-Indigenous Australians would be compatible with, and in fact would be achieved by

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257 Brennan gave his own account of the passage of the motion: ‘Waiting for the Resolution’ Australian Quarterly, vol 61, no 2, 1989, pp 242-250. See also Gardiner-Garden, J, op cit, p15. Hawke acknowledged that the inspiration for the motion came from the Churches: At the start of our bicentennial year the heads of Australian churches issued a statement titled ‘Towards Reconciliation in Australian Society’. The idea for this motion originated with that statement and the precise words of the motion have been suggested by the churches. For this reason, and to prevent the injection of party politics into this motion, I believe it should be voted on without amendment from either side of the House’, 23 August 1988, House Hansard, p137.

258 Hawke moved ‘That this House...’ acknowledges that: A. Australia was occupied by Aborigines and Torres Strait Islanders who had settled for thousands of years before British settlement at Sydney Cove on 26 January 1788; B. Aborigines and Torres Strait Islanders suffered dispossession and dispersal upon acquisition of their traditional lands by the British Crown; and C. Aborigines and Torres Strait Islanders were denied full citizenship rights of the Commonwealth of Australia prior to the 1967 Referendum; 2. affirms: A. the importance of Aboriginal and Torres Strait Islander culture and heritage; and B. the entitlement of Aborigines and Torres Strait Islanders to self-management and self-determination subject to the Constitution and the laws of the Commonwealth of Australia; and 3. considers it desirable that the Commonwealth further promote reconciliation with Aboriginal and Torres Strait Islander citizens providing recognition of their special place in the Commonwealth of Australia.’ Hawke, R.J.L, 23 August 1988, House Hansard, p137. See also Johns, G ‘Reconciliation: Read the Fine Print’, Quadrant, November 1999, p16; on the churches’ suggestion that there be a reconciliation process, Johns (a minister in the Keating government) says ‘a grateful Labor government ran with it as a means of keeping the constituency occupied, knowing that no Australian government would ever accept the breach of sovereignty that a treaty implies.’
means of, a treaty or compact, as well as by the renewed commitment to self-
determination manifested in the proposed Aboriginal and Torres Strait Islander
Commission (ATSIC). But reconciliation, although achieved by policy, was not
something which could itself be measured in terms of policy. Rather, it supplemented
policy, and worked in a quasi-spiritual or inspirational manner: 'If we provide budgetary
assistance but not hope, not confidence, not effective consultation, not reconciliation, that
assistance will fail to lift Aboriginal and Islander people from their disadvantaged state.'

The Coalition sought to amend the resolution to attach, at the end of the reference to self-
determination and self-management, the words 'in common with all other Australians.'
The problem for Aboriginal affairs policy makers was one of 'disadvantage', and such
disadvantage ought to be 'removed as part and parcel of their rights and their entitlements
as Australians and as part of the Australian nation.' Howard warned of the dangers of
creating the 'impression of divisions in the Australian community' and the 'unwisdom of

259 Hawke: 'the Government is committed to a real and lasting reconciliation, achieved through full
consultation and honest negotiation between Aboriginal and non-Aboriginal citizens of this nation. This
will be recognised by the preamble to the Commission legislation. It will be recognised by the compact or
treaty which we are committed to negotiating with Aboriginal and Islander people, and it will be recognised
by our support for this motion. Without this overall approach, without a proper settlement and proper
recognition, there can be no real and lasting improvement for the Aboriginal and Islander people. That is
why this motion is no mere symbolism or empty tokenism.' 23 August 1988, House Hansard, p137. Rowse
argues that the Labor government failed 'to provide a philosophical defence against the argument,
presented with vigour since then, that indigenous Australians have no distinct, historically based rights to
govern themselves.' He further argues that the ATSIC proposal was 'corporatism tricked out in the rhetoric
of "self-determination"...the government needed a national indigenous interlocutor and it would devise
one.' Obliged to be Difficult, p199.

encountering a treaty.' The opposition 'totally understood and supported' the sentiments of the Churches, yet it was 'concerned that the motion ....can create the perception of separate development and the impression of divisions in the Australian community.' Howard saw the symbolic nature of the concept of reconciliation, and whilst he accepted the relevance of symbolism to public life, the reconciliation motion

will not of itself improve the health or the education standards or necessarily lift the horizons of Aboriginal Australians. Anybody who imagines that resolutions and symbolism are a substitute for effective working policies in this, or indeed any other area is deluding himself.\textsuperscript{261}

But Howard was himself engaged in a politics of a highly symbolic nature. It was important to him to relate Aboriginal disadvantage to the unity of Australia. He did this by making it clear that the Coalition did not consider Indigenous peoples to have any specific entitlement to government services-

We want the Aboriginal disadvantage to be removed as part and parcel of their rights and entitlements as Australians and as part of the Australian nation. We are not interested in any conduct or activity that in any way creates division between Aboriginal and other Australians.\textsuperscript{262}

\textsuperscript{261} Howard, J, 23 August 1988, \textit{House Hansard}, p139.
\textsuperscript{262} \textit{ibid.}
The Coalition had been running a petition campaign, and through 1988 and 1989 Coalition parliamentarians, predominantly Shadow Minister for Aboriginal Affairs Chris Miles, presented for the attention of parliament numerous standard form petitions which claimed that, whilst there was a need for 'a continuing reconciliation between Aboriginal and other Australians to enhance the unity of the Australian nation', the government's proposed treaty would 'would recognise Aborigines and other Australians as two separate nations and thereby divide Australia and set back prospects for reconciliation.'

The petitioners defined 'treaty' as 'an agreement between two sovereign states.' Howard's 1987 'Future Directions' policy statement had bemoaned the growing sense of shame Australians felt, and were being made to feel, in regards to their own history: 'even people's confidence in their nation's past came under attack as the professional purveyors of guilt attacked Australia's heritage and people were told they should apologise for pride in their culture, traditions, institutions and heritage.' In the context of a flagging treaty proposal, and in the thick of a continuing debate on the establishment of ATSIC, Miles now asserted that ALP policy would 'separate' Australians. The ATSIC proposal was itself 'based on an ideology of the seventies rather than the administrative realities of the eighties and it would lead to separation...Aboriginal Australians should be assisted on the basis of needs and not on the basis of race.'

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263 For example, see 1 December 1988, *House Hansard*, p3618. In March 1989 the Coalition also raised, as a matter of public importance in relation to the treaty proposal, 'the damage done by the government to prospects for continuing reconciliation between Aborigines and other Australians by its insensitivity and unrealistic raising of expectations'; cited in Griffiths, M, *op cit*, 217.


trip.' The government was focused, to the detriment of Aboriginal persons themselves, on 'symbolism, separation and perpetual guilt.'

Parliamentary debates on the proposed treaty in 1988 and 1989 demonstrate that the Labor party, although recognising that injustices had flowed from the British colonisation of Australia and that there was a need for some kind of historical redress, never suggested that this position necessarily implied the complementary position that the sovereignty of the Commonwealth was therefore somehow impugned (although this may follow as a matter of logic.) A treaty or compact would be made in recognition of the status of Indigenous peoples as

i) the prior owners of Australia, and

ii) their historic dispossession, and subsequent contemporary disadvantage.

The Coalition had opposed any form of words which might have implied that Indigenous peoples constituted a separate nation or nations to the Commonwealth of Australia. But in

266 House Hansard, 1989, vol 165, p1143; cited in Griffiths, M, op cit, p220. Kevin Andrews also raised the spectre of guilt and apology in a debate he initiated on 'the achievements of our forbears'. He moved that the house 'abhors the emerging sense of apology about our past and calls on all Australians to celebrate the proud achievements of our forbears whose enterprise in the face of adversity helped ensure our prosperity'; House Hansard, 1991, vol 179, p1193; cited in Griffiths, M, op cit, p234. See also Wayne Truss' comments on the Draft Declaration of the Rights of Indigenous People in 1994: 'this treaty gives (indigenous peoples) in practice the right to set up a country within a country'; Hansard, 1994, vol 192, pp18-19; cited in Griffiths, M, op cit, p267. Talk of guilt was not limited to the late eighties. National Party Leader Tim Fischer attacked the 'guilt industry' in the lead up to the 1993 election: I'm 'not going to apologise for 200 years of white progress in this country.' Cited in Tickner, R, Taking a Stand, p98.

267 For example, see Snowdon, W, December 1 1988, House Hansard, p3629.
fact the government had never proposed this. The ALP has experimented with self-determination and with the concept of a Makarrata or treaty. But its advocacy of Indigenous rights has taken place within the context of a greater commitment to the unity of the Australian nation and to the uncontested sovereignty of the Commonwealth. This has forced the ALP to undertake a delicate balancing act—recognising the historical fact of unjust treatment, and of prior ownership of the land, whilst at the same time maintaining a commitment to Australian sovereignty, considered in the indivisible and monolithic sense. Clyde Holding provided one demonstration of such a balancing act in 1983, when he took up some of the historical themes that were by that time a well-established part of the political rhetoric of Indigenous peoples. He moved a motion that

this house acknowledges that...the Aboriginal and Torres Strait Islander people of Australia, were the prior occupiers and original inhabitants of Australia and had occupied the territory of Australia for many thousands of years....

This acknowledgment of original ‘occupation’ begged the obvious questions: did Indigenous peoples possess property in the land and, if so, by what means was that property given up and transferred to the Commonwealth? Was it a legitimate process, or theft on as a grand a scale as history has ever known? Holding attempted to close off the question with a pre-emptive assertion of Australian sovereignty-

neither the grant of land nor the recognition of Aboriginal prior occupation and ownership in any way puts Australian sovereignty in question. Sovereignty is vested in the Crown and parliament, for a single people united in the Commonwealth. The people who are so united are all Australians.\textsuperscript{269}

The ALP's concept of treaty, whatever that term may have been taken to mean by groups outside the parliament, never included (at least explicitly) the concept of sovereignty. The difference between Government and Opposition, at least on the question of a treaty, appears to have been one of degree, rather than of kind.

**Treaty Politics at the Beginning of Reconciliation**

In the early to mid eighties Government ministers did not speak of reconciliation as an alternative to self-determination or even to treaty politics, but rather, considered such a treaty or compact to be the means by which reconciliation would be achieved. ALP Senator Michael Tate, commenting on *Two Hundred Years Later*, the 1983 report of the Senate Standing Committee of Legal and Constitutional Affairs, noted that Indigenous proponents of a treaty had also argued that the best means to effect a reconciliation was

\textsuperscript{269} \textit{ibid}, p207.
to negotiate ‘a comprehensive agreement setting to rights, in so far as it is possible some
two hundred years later, the dispossession and ill-treatment suffered by the original
inhabitants of this continent.’\textsuperscript{270} At Barunga in 1988 Prime Minister Hawke accepted a
petition from Indigenous people calling on the government to negotiate an agreement or
treaty.\textsuperscript{271} Hawke made that commitment, and by doing so he immediately revived a
dormant treaty talk. Treaty-talk, although never completely subsiding, had last been
prominent at the time of the government’s election in 1983, when the National
Aboriginal Conference had been advocating a ‘Makarrata.’ Obviously aware of the
semantics of the debate, Hawke made it clear that the word ‘treaty’ was not essential to
his position- one could call it what one liked, but what was important was the ‘spirit’
behind the agreement.\textsuperscript{272}

\textsuperscript{270} Tate, Senator M, September 13, 1983, Senate Hansard, p597.
statement called on the Commonwealth ‘to negotiate with us a Treaty recognising our prior ownership,
continued occupation and sovereignty and affirming our human rights and freedom’; Barunga Statement,
http://www.austlii.edu.au/au/orgs/car/docrec/policy/brief/attach.htm#A Malcolm Fraser had also promised
to discuss a treaty with Aboriginal people in 1979; Bennett, S, \textit{op cit}, p173. The National Aboriginal
Consultative Committee had called for a treaty in 1979, the same year Paul Coe of the Redfern Aboriginal
Legal Service lost his challenge to the sovereignty of the Commonwealth in the Australia High Court;
Gardiner-Garden, \textit{From Dispossession to Reconciliation}, p7; See also Rowse’s account of the history of the
treaty proposal in \textit{Obliged to Be Difficult}; pp 174-185 and \textit{The Treaty Debate 1979–1983 and the
25/03/2002.
\textsuperscript{272} Cited in CAR , \textit{Documents of Reconciliation - Briefing Paper}
for Aboriginal Affairs, and now co-chair of Reconciliation Australia, Fred Chaney, considered that the term
Makarata did not imply sovereignty but was ‘a word which fundamentally involved the process of
The debate on the preamble to the proposed *ATSIC Bill* in 1989 marks the transformation of what had originally been a Makarrata, and which had been variously known as ‘treaty’, ‘compact’ and ‘agreement’, into a ‘document of reconciliation’. The Coalition opposed the passage of the *Aboriginal and Torres Strait Islander Commission Act 1989* on both substantive and symbolic grounds. Senator Jim Short, a Liberal from Victoria, made perhaps the bluntest assessment of the division between Labor and the Coalition. Short felt that the preamble was historically inaccurate; ‘it assumes that the relationship between Aborigines and Europeans from the very beginning was essentially antagonistic, brutal and thoughtless. But that is contrary to the facts.’ The parliament ought to recognise that ‘that there are many examples of the opposite-of cooperation and integration. It is this experience that we should be building on-not denying its very existence.’ The preamble was but the latest manifestation of a wide-ranging tendency amongst ‘some politicians, journalists, clergymen and propagandists .... to denigrate the achievements of our forebears.’ The government was likewise guilty of dividing Australians and had ‘officially set the Aborigines apart from other Australians.’

Short also prefaced the debate which would follow the *Mabo* decision three years later with his comments on *terra nullius*. The preamble gave ‘the impression that Captain Cook and Governor Phillip acted in an illegal and unjust way in taking possession of the land by proclamation and settlement.’ It was also a *de facto* attack on the doctrine of *terra nullius*, which had, said the Senator, been correctly applied to Australia:

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In 1770 the Aborigines had no agriculture as we understand it. They raised no animals. Their few utensils, weapons and ornaments were, by Western standards, crude in the extreme....They had no single common language and no political institutions.275

The Senator was aware of the judgment of Blackburn J in the Gove Lands Rights Case276, but it is almost inconceivable that he had read it, given his wholesale ignorance of the Courts findings in regard to Aboriginal social, political and religious life. For Short the case was authority for the correctness of terra nullius, and he could not understand why there had been ‘since that judgment...a litany of academics and propagandists... have worked vociferously to attempt to rewrite the history of Australia.’277

The proposed preamble to the ATSIC Bill had included a series of clauses effectively reiterating the historical substance of the previous year’s debate on reconciliation, and was, for that reason, opposed by the Coalition.278 The Coalition succeeded, with

274 ibid.
275 ibid.
277 ibid.
278 The Coalition opposed the ATSIC Bill in its entirety as a ‘culturally inappropriate’ product of a ‘radical’ and ‘extremist’ agenda. Liberal MHR John Webster spoke of ‘a small, unrepresentative group of Australian Labor Party ideologues and Aboriginal activists’ who were ‘more concerned with challenging the sovereignty of what they call the Euro-Australian federal state than with the mundane priorities of health, education and jobs for the Aboriginal communities.’ They had a ‘preoccupation with political semantics, as evident in the preamble of the principal Bill, and with political structures, as evident in ATSIC itself.’ He
Democrat support, in having the preamble excised from the Bill and presented to the Senate as a separate resolution. Australian Democrats leader John Coulter explained that, although the Democrats were completely in agreement with the wording of the preamble, they thought that it should be passed as a separate resolution to avoid any suggestion that the preamble might have legal force. He described the preamble to the ATSIC Bill as the second stage in a larger schema of government policy, the first stage of which had been the passage of the motion of reconciliation. The third and final step, according to Coulter, was the conclusion of a negotiated treaty with Indigenous peoples. The Democrats supported the negotiation of a treaty with two qualifications- that the process be more transparent, and that they would prefer a treaty to be referred to as a *memorandum of understanding and reconciliation*-between the Government, representing mainstream Australians, and Aboriginal people.\footnote{Coulter, J, 17 August 1989, *Senate Hansard*, p251. My emphasis.}

Liberal Senator from NSW (and later President of the NSW Anti-Discrimination Board) Chris Puplick summed up the transformation as follows-

> the Opposition opposes the passage of the proposed resolution in the form in which it is now before the Senate-that is, basically a recast version of the preamble, to which Senator Coulter has added an additional clause dealing with what he calls an instrument of understanding and reconciliation, something which has previously been referred to as makarrata, a treaty or a

\footnote{Preamble to the Bill was described as ‘imprudent’ and ‘self-indulgent.’ 23 May 1989, *House Hansard*, p2722.}
compact. It has been through all sorts of manifestations and we have opposed it in all of them.\footnote{Puplick, C, 17 October, 1989, Senate Hansard, p1969.}

A sharp periodisation between treaty-talk and reconciliation politics is misleading. ‘Reconciliation’ was taken up as an alternative term to ‘treaty’ not to take the issue of a negotiated compact or agreement off the agenda but to circumvent the objection, raised repeatedly by the Coalition, that a treaty was an agreement between sovereign states and as such would divide the nation.\footnote{CAR, Documents of Reconciliation - Briefing Paper; ‘the idea of a “document of reconciliation” was developed as a way to deal with the sensitivities and differences which existed about a treaty.’ www.austlii.edu.au/au/orgs/car/docrec/policy/brief/index.htm} The distinction between the two kinds of politics does hold, however, in so far as the reconciliation process produced a document different in kind to that envisaged by proponents of a treaty. Rather than ‘setting to rights, as far as is possible two hundred years later’, the dispossession of Indigenous peoples, the Declaration Towards Reconciliation delivered to the people at Sydney in 2000 was merely an ‘aspirational’ document. It is not an agreement at all, let alone a binding document, entrenched in legislation or in the Constitution, establishing rights justiciable in the courts. The quality of the prose is neither here nor there, for in any event the document itself is irrelevant, or will no doubt soon become so simply because it has no weight in law.

The distinction between treaty politics and reconciliation, in so far as it exists in relation to the production of a written document or agreement, is not one which developed in any
sudden fashion. It was a break which opened slowly and which was not fully apparent until the nature of the proposed document of reconciliation became clear. There is a line, admittedly somewhat wandering but nevertheless apparent, between Hawke’s commitment at Barunga to a compact or an agreement- ‘call it what you like’- and the Documents of Reconciliation produced by the Council for Aboriginal Reconciliation in 2000. It should come as no surprise, in light of that conclusion, that reconciliation politics always carried with it something of a treaty politics by another name, albeit one that largely excluded the discussion of Indigenous sovereignty.282

The Origins of the Council for Aboriginal Reconciliation

Reconciliation was now being used in at least two distinct but not incompatible senses. Firstly, reconciliation had been connected to the treaty debate via the preamble to the ATSIC Bill. But when Holding had spoken of the ‘principles’ of reconciliation in 1983, and when the Churches had made their decisive statement in 1988, they had had in mind a reconciliation that was broader than and more substantial than reconciliation as an agreement, or reconciliation through agreement, and for that reason something that was

282 Geoff Clark wrote that the ‘concept of reconciliation grew out of the calls for a treaty or a makarrata made by Aboriginal activists in the 1970’s’; ‘From the time Bob Hawke advocated a treaty there was no turning back…it’s out of the box and it won’t go back in’; Clark, G, ‘Not Much Progress’ in Grattan, M, Essays on Australian Reconciliation, pp230-232.
also less precise. Reconciliation was here both programmatic, implying a context in which policy would operate, and something which, although achieved through policy, was not itself part of policy. It related to the relationship between Indigenous and non-Indigenous peoples, and could not be considered only in terms of the relationship between peoples and a government, but was something to be felt at a personal or community level. This was the sense in which the Royal Commission into Aboriginal Deaths in Custody had taken up the notion of reconciliation in its final report to parliament. Commissioner Johnston did not identify reconciliation as a species of agreement or treaty. Rather, reconciliation pertained to the development of better ‘community’ or ‘race’ relations, a change in which would provide the fundamental backdrop to improvements in the social position of Indigenous peoples. The great barrier to progress had been the ‘large reservoir of enmity and anger amongst Aboriginal people, and a lack of understanding amongst non-Aboriginal people.’ The process of overcoming that division of anger, distrust and misunderstanding was ‘often called reconciliation’.  

283 Johnston, E, Royal Commission into Aboriginal Deaths in Custody, vol V, p38. Commissioner Johnston’s Final Report included, as its own final recommendation, that ‘All political leaders and their parties recognise that reconciliation between the Aboriginal and non-Aboriginal communities in Australia must be achieved if community division, discord and injustice to Aboriginal people are to be avoided. To this end the Commission recommends that political leaders use their best endeavours to ensure bipartisan public support for the process of reconciliation and that the urgency and necessity of the process be acknowledged.’ In addition, the Royal Commission’s first recommendation had been that ‘it is highly desirable that the attitude of governments to the recommendations and the implementation of those be carried out in a public way as part of the process of education and reconciliation of the whole community’; p43.
Aboriginal Affairs Minister Robert Tickner had circulated a discussion paper in February 1991 which Commissioner Johnston commented upon in his final report.\(^{284}\) Tickner’s proposal had been to establish as a Council for Aboriginal Reconciliation a body ‘charged with advancing the process of reconciliation both by taking initiatives in that regard and by playing a lead role in the educative process’.\(^{285}\) The paper noted the tendency of previous debates to have become ‘bogged down’ on ‘issues and details’, such as the use and meaning of the words ‘treaty’, ‘sovereignty’ and ‘compact.’ These words had imposed ‘their own tyranny’ on debate. It was now necessary to move towards a bipartisan position, and to ‘consider the issues on their merits and free from party politics.’\(^{286}\) On the proposed treaty or compact, the government’s preferred term was now a ‘an instrument of reconciliation.’ Such an instrument was, however, secondary to, and would perhaps be a ‘valuable outcome’ of, a ‘process’ of reconciliation. Commissioner Johnston noted that Tickner had received expressions of support from the senior clergy, including the President of the Uniting Church, the Roman Catholic Archbishop of Sydney, the Moderator-General of the Presbyterian Church and the Primate of the Anglican Church of Australia.\(^{287}\)

Tickner’s discussion paper formed the basis of the *Council for Aboriginal Reconciliation Act 1991*. The Coalition was entitled to consider the Act to be a significant victory. The government had effectively abandoned plans for a treaty, absolving itself of policy

\(^{284}\) *ibid*, p41.

\(^{285}\) *ibid*, p42

\(^{286}\) *ibid*, p41.

\(^{287}\) *ibid*, p42.
responsibility by delegating the matter to an independent body not due to report for another decade. And the government had, in any event, emphasised the importance of process over outcome. We are left to wonder then if Robert Tickner had taken due notice of Patrick Dodson’s comments in his Royal Commission Report. Dodson had agreed with Commissioner Johnston in so far as he felt that a reconciliation process might be a ‘useful way of removing some of the fear and hostility that clouds both Aboriginal and non-Aboriginal people.’ But he also saw in reconciliation a paradigm shift in government policy in regards to Indigenous peoples. Reconciliation was a new phase in government policy following on from assimilation, self-management and self-determination, all of which were acts of ‘welfare’ aimed at basic needs and which had the effect of ‘turning Aborigines into replicas of non-Aboriginal people.’ Reconciliation, on the other hand, was directed at the ‘complex and sometimes thorny questions of Aboriginal sovereignty rights’, and would be achieved by means of ‘a treaty or an instrument of reconciliation between Aboriginal and non-Aboriginal people in this country.’ Dodson was also reported as saying that he would not have accepted the position of Council Chair if he did not believe that a ‘treaty’ or ‘document of reconciliation’ was not a viable outcome of the process. What was the purpose, then, of appointing as head of the new CAR a man who had made the connection between reconciliation and sovereignty, when that was a link the government was, in effect, running away from?

289 *ibid.*, pp261-263.
Tickner described the objective of the Council for Aboriginal Reconciliation as 'the transformation of Aboriginal and non-Aboriginal relations in this country.' Introducing the Council for Aboriginal Reconciliation Bill in the House of Representatives in 1991, he nevertheless emphasised the practicality of reconciliation, and attempted to paint the government’s new policy in as positive a light as was possible in the context of the ALP’s earlier series of back-downs, first on a Makarrata, then on national land rights, and on a treaty again in the late eighties. Tickner was eager to prove that 'reconciliation was not a vague concept' and that the government had maintained its commitment to justice in a practical sense.

The opposition spokesperson on Aboriginal and Torres Strait Islander Affairs, Dr Michael Wooldridge, offered Coalition support to the reconciliation process in his speech to the final report of the Royal Commission into Aboriginal Deaths in Custody. In that speech he outlined the differing approaches Labor and the Coalition would adopt in relation to reconciliation for much of the following decade, differences that were not brought into stark contrast until John Howard and John Herron adopted their policy of 'practical reconciliation' in the mid to late nineties. Wooldridge noted that both parties had accepted the importance of reconciliation 'for a long time', but he went on to say that

292 ibid. Senator Bob McMullan noted support for the reconciliation proposals from a variety of indigenous groups, such as the Central Land Council, the National Coalition of Aboriginal Organisations and ATSIC, and from members of the Australian Council of Churches. Support for reconciliation amongst non-Aboriginal persons was 'extremely heartening,' and had been forthcoming from peak groups such as the Australian Medical Association, the Federation of Ethnic Communities, the Confederation of Australian Industry and the National Farmers Federation; 6 June 1991, Senate Hansard, p4599.
"reconciliation is difficult because it means a lot of things to a lot of people."²⁹³ Wooldridge was also concerned that the ‘council might end up like another constitutional commission’ or ‘that such a vehicle might be a body for activists.’²⁹⁴ But if the government wanted to talk about economic, social and cultural disadvantage, then ‘we have somewhere we can go together.’ The ‘main issue’ in Aboriginal affairs policy, said Wooldridge, was service delivery.²⁹⁵

The Democrats embraced the reconciliation project early on. Indeed, it had been Senator John Coulter, then leader of the federal party, who had initiated the key change in language from ‘treaty’ to ‘document of reconciliation’ during the ATSIC debates two years earlier. Speaking on the Royal Commission in May 1991, Coulter said that ‘the process of reconciliation must touch every single person in Australian society’, and must ‘permeate the whole of society and not just simply be a document.’ This oblique reference to the contentious issue of a treaty was complemented by his insistence that ‘Aboriginal Australians are, like the rest of us, Australians. They are no less so because

²⁹⁵ Senator Ian Campbell, Liberal for WA, echoed some of these concerns in his offering of a somewhat less ‘reconstructed’ view of what the reconciliation process might entail. Campbell considered the rapidly rising expectations of indigenous peoples, fuelled by irresponsible Labor governments, to be a major impediment to reconciliation. He also cautioned against the pursuit of a treaty: ‘If we go down the track of trying to create a treaty, of building up a political ground swell for a treaty or using the reconciliation process to put national land rights back onto the political agenda, then that non-partisanship will disappear very quickly’; August 16, 1991, Senate Hansard, p556.
of their ancestry, but no more so either. We simply don’t have Australians of different ‘classes.’

The Powers and Functions of the Council for Aboriginal Reconciliation

The Council for Aboriginal Reconciliation Act was passed by unanimous vote of the Australian parliament in 1991. The object of the Act was to establish a Council to promote a process of reconciliation between Aborigines and Torres Strait Islanders and the wider Australian community. The process would foster ‘an ongoing national commitment to co-operate to address Aboriginal and Torres Strait Islander disadvantage.’ (s5) The preamble to the Act includes an acknowledgment of past injustices:

Australia was occupied by Aborigines and Torres Strait Islanders who had settled for thousands of years before British settlement at Sydney Cove on 26 January 1788; many Aborigines and Torres Strait Islanders suffered disposssession and dispersal from their traditional lands by the British Crown.

It also acknowledged that there had never been any formal process of reconciliation between Indigenous and other Australians: "by the year 2001, the centenary of Federation, it is most desirable that there be such a reconciliation."

The CAR Act contained a sunset clause, limiting the life of the Council to ten years, finishing on the centenary of Federation in 2001. Three separate councils operated during that time, the first two appointed by the ALP and chaired by Patrick Dodson, the third appointed by the new Coalition government, and chaired by Evelyn Scott. Each council consisted of up to twenty-five appointees, with no fewer than fifteen members at any one time. The Act provided that the chair of the CAR was to be an Aborigine. The deputy chair was not required to be an Indigenous person, and was in practice a non-Indigenous person. At least twelve of the members of the Council were required to be Aboriginal, and a further two were to be Torres Strait Islander. One member was to be nominated by the Minister Assisting the Prime Minister for Reconciliation, to whom the Council reported. Another member was to be nominated by the leader of the opposition, and a further member was to be nominated by any other party in the parliament with more than five members. The Australian Democrats were the only party who met this criterion during the life of the CAR. The chair and deputy chair of ATSIC were also to be members. Reflecting the bipartisan aspirations of the Act, appointments by the minister were only to be made after consultation with the leader of the opposition, with the leader of any other political party with five or more members of the parliament, and with ATSIC. All council members except the chair held office on a part-time basis.
The CAR was assigned a number of functions by its enabling statute. These included a general responsibility 'to undertake initiatives for the purpose of promoting reconciliation between Aborigines and Torres Strait Islanders and the wider Australian community.' Those activities were to be focused primarily on the local community level. Consistent with the belief then current in the ALP that a more progressive Indigenous affairs policy could only occur in the context of a more positive public disposition to the situation of Indigenous peoples, the CAR was given responsibility 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.

The Council was to also make annual reports on progress towards reconciliation between Indigenous and non-Indigenous Australians. The Council was also required to submit to the Minister each of its three year strategic plans for approval.

Perhaps most importantly, the CAR was to take up and possibly resolve the controversial question of a treaty, or as the treaty had become known in the late eighties, a document or documents of reconciliation. The CAR was required 'to consult Aborigines and Torres Strait Islanders and the wider Australian community on whether reconciliation would be advanced by a formal document or formal documents of reconciliation.' The CAR was required to make recommendations on the nature and content of, and the means to give
effect too, such a document or documents of reconciliation. The CAR was given all the powers necessary to perform these functions, including the power to invite submissions, hold inquiries, organise conferences, and to undertake research and statistical surveys. It was also empowered, subject to the approval of the Minister, to establish sub-committees. The Minister was in turn required to consult with the leader of the opposition on the establishment of such committees. The Minister was empowered to give ‘general directions to the Council as to the performance of its functions and the exercise of its powers.’ The Minister was not permitted, however, to give directions relating to the content of any information or advice provided by the Council to any person, or to make any direction to the CAR without first consulting its chair. The Council secretariat was located within the Department of Prime Minister and Cabinet. The CAR had an annual operating budget of approximately $4 million.  

Indigenous Responses to the Reconciliation Process

The reconciliation process was greeted with varying degrees of approval, scepticism, and outright rejection amongst Indigenous leaders. Michael Wooldridge claimed that the reconciliation process had been received less than warmly in Indigenous Australia:

There is a lot of cynicism about this in Aboriginal Australia, not just in white Australia, and the cynicism in Aboriginal Australia is, 'Is there going to be anything in it for me? How is it going to affect my life?'

Patrick Dodson later reflected that in 1991 ‘many of our leaders, both black and white viewed the Council as a sell-out. A compromise, a feel-good talk fest.’ Charles Perkins, for example, called the reconciliation process a ‘big lie and a sell-out.’ Aboriginal Provisional Government Chair Bob Weatherall called for a boycott of the Council. But the response was not entirely negative. Dodson had himself managed to hold reconciliation and his earlier commitment to Aboriginal sovereignty in the balance, seeing in reconciliation an opportunity for a fresh start, and the chance to revolutionise Indigenous/ non-Indigenous relations in Australia. Burnum Burnum, like Dodson, had held a commitment to Indigenous sovereignty. In an Australia Day 1988 stunt he had proclaimed Aboriginal sovereignty over the United Kingdom in a flag-raising ceremony on the sands of Dover in England. But Burnum Burnum also made the link between sovereignty and reconciliation. Reconciliation, rather than being a formal government led process, was fundamentally a matter of the spirit. He held out the idea that it might be possible to conclude a treaty or compact ‘without having words spoken.’ Although Indigenous persons had inherited a deep spiritual connection to the land, developed over

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300 ‘Now reconciliation is seen as a dynamic alternative to policies and practices that are divisive, unjust and unfair’, Telstra Address Address to the National Press Club, November 28 1997


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a very long period of time, non-Indigenous persons were also capable of 'a strong, deep, spiritual and emotional affinity to the land.'\textsuperscript{301} It was this shared spiritual appreciation of the Australian land that might serve as the basis for an unspoken reconciliation.

Paul Coe of the Aboriginal Legal Service in Redfern had brought a landmark challenge to the sovereignty of the Commonwealth in 1979. He viewed the official reconciliation process as the government’s agenda, as an issue for non-Indigenous persons, and as a deferral of true justice: 'Aboriginal people never asked for Reconciliation.... Why should justice for Aboriginal people be delayed till the oppressor is 'enlightened' in its attitudes?\textsuperscript{302} He also considered the concept of reconciliation to be, in the circumstances of Australian history, inappropriate: 'the term reconciliation is premised on the notion of a pre-existing state of goodwill between the invaders and Aboriginal people. Such goodwill has never existed.'\textsuperscript{303} Coe set out his own, more radical understanding of what 'true reconciliation' would entail.

\begin{quote}
The only basis for Reconciliation would be the policy of Aboriginal people in an equal bargaining position with non-Aboriginal Australians....The only true Reconciliation would be a UN monitored negotiated process between Indigenous peoples of Australia and the people of the invaders- a process that would ensure we bargain as equals.\textsuperscript{304}
\end{quote}

\textsuperscript{301} 'Interview with Caroline Jones' in Moores, I, \textit{op cit}, p426, 433.
\textsuperscript{302} Paul Coe, quoted in Tony Duke ‘Reconciliation...who reckons what!’ in Moores, I, \textit{op cit}, p283.
\textsuperscript{303} \textit{ibid}. See also Moores, I, ‘International Year for Indigenous People’ in Moores, I, \textit{op cit}, p383.
\textsuperscript{304} \textit{ibid}.
Coe offered a treaty politics by another name. He retained the language of Indigenous sovereignty—of invasion, and insisted on a formally negotiated agreement. Patrick Dodson would later make a similar argument in his Lingiari lecture, although there he was more positive than Coe about the value of reconciliation as an official government project. Coe’s daughter Isabel would make a similar assessment of the reconciliation process a decade later. Herself a plaintiff in the failed 1993 challenge by the Wiradjuri people to the sovereignty of the Commonwealth, Isabel Coe was nevertheless sceptical of the value of what she termed ‘recon-silly-nation’: ‘it’s just a feel-good exercise for white Australians.’

Kevin Gilbert was another to examine the conceptual and political limitations of the concept of reconciliation: ‘We have to look a the word ‘reconciliation’. What are we to reconcile ourselves too? To a holocaust, to massacre, to the removal of us from our land, from the taking of our land?’ Gilbert was here playing on one of the double meanings of the word ‘reconciliation’, one which I do not think the Churches, the Royal Commission or the political parties had in mind when they first showed their support for the concept. He was referring to ‘reconcile’, in the sense of reconciling oneself to, or accepting or acquiescing in, one’s fate. Matilda House, then Chair of the Ngunnawal Local Aboriginal Land Council, made similar comments in her welcome to a CAR conference in 1993: ‘How can we as nations of people reconcile ourselves, or sovereign

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206 Gilbert, K, ‘What Are We to Reconcile Ourselves To?’ in Moores, I, op cit, p287.
position, to a relationship with an Australia government who are cheats, thieves and liars? 
Are we to reconcile ourselves to the detriment or our own culture and sovereignty?\(^{307}\)

The Aboriginal Provisional Government refused to accept the terms of the new agenda, and in its own way, kept on with its advocacy of a pan-Aboriginal sovereignty. The APG considered the reconciliation process to be not only vague, but to be so lacking in substance as to be a public relations exercise. In the sense that the process was thought of by senior politicians to be a means of improving the public climate for Indigenous affairs policy making, the APG was right. But the APG was dismissive of what benefits such ‘progressive’ policy might bring to Aboriginal people: ‘the whole Reconciliation process is nothing more than a government mechanism for enlisting white support for passing on some welfare benefits to Aboriginal people.’\(^{308}\) Rather than engage in such an ill-conceived venture, the APG claimed that it was now the right time to form a national black liberation body. The APG saw reconciliation and ‘justice’ for Indigenous peoples as mutually exclusive terms- the ‘promotion of Reconciliation will be at the expense of action to immediately move towards self-determination.’\(^{309}\) In relation to white guilt however, the APG said that white people ‘had every right to feel guilty. Had our lands not been invaded, how could their nation exist today?’ In this respect the APG was a player in the politics of history which dominated parts of the official reconciliation period.


\(^{308}\) Aboriginal Provisional Government, ‘Reconciliation by 2001’ in Moores, I, op cit, p307.

Early CAR publications were one forum in which local Indigenous opinion received a measure of expression. The CAR was required by statute to conduct a community consultation program. Some small snippets of Indigenous opinion expressed in that consultation program made it into the national debate via the reports published in the Council Magazine, *Walking Together*, and in the Council's social justice consultation compilations. The 1993 Melbourne consultation meeting threw up two interesting comments on the reconciliation process. *Walking Together* reported that the community was divided on whether to accept the process. But it also noted that various speakers considered that Indigenous peoples needed to be reconciled to each other before they could reconcile with white Australia. At the Tasmanian meeting local Indigenous people spoke of their struggle to be recognised as a distinct people. One speaker said there was a place in the reconciliation process for the making of strong demands on non-negotiable Indigenous entitlements.\(^{310}\)

In August 1993 *Walking Together* reported on the Thursday Island meeting in the Torres Strait. That meeting was noteworthy for the sheer practicality of the issues raised by the participants- they spoke of problems with customs and quarantine, of environmental pollution, the exploitation of the fishing industry, and of self-government in the Torres Strait.\(^{311}\) Those issues of symbolism, history and faith that would dominate the national


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reconciliation process were, as far as one can tell from the CAR report, not mentioned. This says something of the way in which the Thursday Islanders initially thought about reconciliation: as the forum in which to address substantive issues with an impact on their daily lives, rather than as a process relevant to national identity, or for the redress of past wrongs. In Cairns the participants raised a broader range of issues. Like the Thursday Islanders, they saw a link between reconciliation and substantive policy issues, such as environmental degradation and unemployment. But the Cairns meeting is most interesting because of the way in which the Cairns participants linked reconciliation to a treaty. They asked who would sign a treaty or a document of reconciliation on behalf of Indigenous peoples. By implication, it might be thought that the Cairns participants saw no clear distinction between treaty politics and reconciliation.\(^{312}\)

Another forum in which local Indigenous opinion was expressed and recorded was the community consultation process which preceded the development of the CAR’s post-Mabo social justice report. *Towards Social Justice: Compilation Report of First Round Consultations*, noted that in Townsville, Dubbo, Karatha and Sydney meeting participants had raised the issue of Indigenous sovereignty.\(^{313}\) In Sydney and Tamworth participants called for the development of an Indigenous constitution. And in Alice Springs there was a call for the recognition of ‘dual’ sovereignty.\(^{314}\) Participants in the

\(^{312}\) *ibid.*


\(^{314}\) *ibid.*
NSW Metropolitan ATSIC Zone meetings advanced the view that self-government, self-determination and sovereignty were 'three parts of the whole.'

Native Title Part I: Mabo and Reconciliation

The first major challenge for the reconciliation process was the Mabo decision of 1992. In that decision the High Court ruled that 'native title' had, in some parts of the continent and under certain conditions, survived to the present day. The legal significance of Mabo was exaggerated in two senses: on the one hand, largely uninformed conservative commentators suggested that the decision put the 'backyards' of urban Australia at 'risk', when this was clearly not the case. On the other hand, supporters of the judgment tended to overlook the extent to which the judgment subordinated native title to the interests of other title-holders and hence rendered it a uniquely precarious form of property right. That said, the judgment's evident concern with the darker aspects of

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315 CAR, Towards Social Justice: Compilation Report of both Rounds of Consultation, pp65,68
316 Bevis, A, November 23,1993, House Hansard, p3490. 'I think probably the worst thing that I have seen during the course of the last few months of debate on this issue was when the Western Australian premier actually named suburbs in Perth that were going to be subject to Aboriginal land claims. I do not think anyone in this House would be foolish enough to suggest, even at the outset of this debate, that residential land was about to be taken from underneath people's feet. Yet, for no reason that I can see, other than base, racist motivation or a desire to instil fear in people, the Western Australian premier decided to pursue a line identifying suburbs where people live; the import of his accusation, the inference being that people's homes were going to be taken out from under them.'
317 See also Grattan, S and McNamara, L, 'The common law construct of native title : a 're-feudalisation' of Australian land law' Griffith Law Review, v 8 (1) 1999, pp 50-85, and 'The recognition on indigenous land rights as 'native title' : continuity and transformation.' Flinders Journal of Law Reform, v3 (2) December 1999, pp 137-162. See Jeremy Webber's argument that the Mabo judgment was a major shift in Australian constitutionalism insofar as it recognises, as the source and definition of native title, the continuing
Australian history and its rejection of one of the founding myths of settler society in the interests of contemporary justice had much in common with Tickner's understanding of the reconciliation process outlined above.\textsuperscript{318} History, recognition and injustice were concerns common to \textit{Mabo} and to reconciliation. Not surprisingly then, the ALP and the CAR saw native title as an 'opportunity' conceptually inseparable from reconciliation. Prime Minister Keating had linked \textit{Mabo} to reconciliation in his Redfern Speech; the judgment 'establishes a fundamental truth and lays the basis for justice.... a basis for reconciliation formerly denied us.'\textsuperscript{319} Dodson thought that Australia was in the mood 'to apologise and consider reparations.'\textsuperscript{320} Then Democrats leader Senator Cheryl Kernot also drew the link between native title and reconciliation, as did Greens (WA) Senator Christabel Chamarette.\textsuperscript{321}


\textsuperscript{320} www.austlii.edu/au/au/special/rsiproject/rsjlibrary/car/arl 993-93/

\textsuperscript{321} Cheryl Kernot said 'we cannot separate native title from reconciliation. To do so displays a blatant lack of understanding of the special attachment that Aboriginal people have for land and that Torres Strait Islanders have for the sea...How we respond to an understanding of special attachment to land is a measure of how we are performing our partnership as we move towards reconciliation.' 15 December 1993, \textit{Senate Hansard}, p 4624. The Greens also supported the Bill, again seeing a link between native title and reconciliation. Senator Chamarette from Western Australia said that 'until the truth of the historical injustice is acknowledged no healing or reconciliation is possible'; 15 December 1993, \textit{Senate Hansard}, p 4696
The Coalition sought to separate the issues of reconciliation and native title completely. By means of such a split it was able to maintain a commitment to reconciliation notwithstanding its opposition to the *Native Title Act 1993*. Peter Reith summarised the Coalition response to *Mabo* in the following way:

we said that all Australians should be treated equally under the law; titles should be validated immediately; native title is the law and we therefore recognise the High Court’s decision; jobs and development should not be jeopardised; mineral rights should be protected; reconciliation should continue to be pursued, but that the *Mabo* issue and reconciliation should be settled separately.

Reith explained that the Coalition accepted the *Mabo* decision but opposed the *Native Title Bill* as an unjust and unworkable approach to land management, itself a state and not a federal responsibility. The *Racial Discrimination Act* and the *Mabo* decision itself

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322 The years 1991 and 1992 had been marked, according to then Minister Robert Tickner, by an unusually co-operative atmosphere in Aboriginal affairs. Tickner attributes this relative peace to the establishment of the CAR and to the then leadership of the Coalition. Hewson and Wooldridge were, respectively, Leader and Deputy Leader of the Liberal Party. Their leadership was marked by a more constructive approach to Aboriginal and Torres Strait Islander affairs. But Hewson, mortally wounded after the 1993 election, was unable to resist the pressure of conservative state leaders and mining interests to change the tone of Aboriginal affairs policy making by becoming increasingly negative on the *Native Title Bill*. Native title became a ‘special right’ offensive to the legal equality of all Australians, and to the unity of the nation; *Taking a Stand*, pp 90, 98.

were adequate protection for native title holders. The Bill before the parliament extended beyond the High Court’s decision in *Mabo*, providing native title holders with a right of negotiation over future developments. This ‘de facto right of veto’ meant that ‘any development project is likely to be bogged down in the tribunals and courts for years, which will be at very great expense to all Australians.’

Liberal MHR Trish Worth said that the Bill attempted ‘to link the *Mabo* judgment with the process of reconciliation.’ It was ‘reckless’, she said, ‘to intermingle issues relating to reconciliation which are sociological with issues relating to the *Mabo* judgment which are legal and administrative. We cannot legislate for good race relations.’ John Anderson accused the government of linking native title to historical guilt. Such a strategy was ‘counterproductive to reconciliation and the pulling together of all Australians as one people.’ Senator John Herron contended that ‘average Australians do not believe that this bill will achieve reconciliation with the Aboriginal community.’ The solution had to come from

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324 ‘Our response to the Native Title Bill rests on three pillars of principle. One, recognition of the decision of the High Court that native title exists nationally at common law. Two, recognition that native title is protected by the existing federal law, the Racial Discrimination Act and affirmation of our support for that law. Three, recognition that the states have constitutional responsibility for land management and the need for this to be maintained because a Commonwealth takeover is both impractical and will undermine the proper functioning of the Australian federation.’ Reith, P, 23 November 1993, *House Hansard*, p3415.

325 ibid.


the Aboriginals themselves; it is not going to come from white Australians. We have been shoving money at them—$1.3 billion, on the latest estimate—but when one goes into these communities it is apparent that, somewhere along the line, it is not getting to the people in the communities.328

The passage of the Native Title Bill into law would be 'a dark day in Australia’s history ... it will be looked back upon, in years to come, as impeding the reconciliation.'329

Opposition leader Hewson decried the tendency of the government and its supporters to tar those who opposed the Native Title Bill as racist. He singled out Noel Pearson as one Aboriginal person who had stooped to gutter tactics. But it appears that Hewson had, at least in one sense, misunderstood the nature of the accusation made against him. He defended his party in classically liberal terms, perhaps missing the point that it was the very failure to have due regard to the particular needs of Indigenous peoples that constituted the cardinal offence:

Racism is abhorrent to all of us on this side of the House and, I believe, to all members of this parliament. The record of the coalition parties both in government and opposition bears testimony to our fundamental commitment to the dignity of every individual, to the equality of

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328 That reconciliation would only come when ‘Aboriginal communities themselves take responsibility for their health care, take responsibility for their employment, take responsibility for controlling their own lives in the way that other Australian communities do’; Herron, J, 15 December 1993, Senate Hansard, p4645.
329 ibid.
opportunity that they should have and to their potential to contribute to the common good of society, irrespective of race, religion, gender or belief. We believe these things deeply and passionately, and we will not cop it from the other side.\textsuperscript{330}

The CAR expressed its deep concern for the negative response of many in the Australian community to the \textit{Mabo} decision from an early stage. In November 1993 it launched its vision statement: 'A united Australia which respects this land of ours, values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all.' That value statement was characteristic of the Council's repeated calls for both justice and unity in the response to the \textit{Mabo} decision. Dodson wrote in November 1993 that the challenge of \textit{Mabo} was 'to find a national spirit that will allow us all to belong comfortably together in one place.' Native title, more than being a matter of justice, was also something which could itself help to heal Australia's discord and division.\textsuperscript{331}

But the CAR stayed largely above the day to day politics of the post \textit{Mabo} native title debate. It acknowledged in \textit{Walking Together}, its first report to the parliament, that the

\textsuperscript{330} Hewson: 'I want to take a little time to debunk, once and for all, an accusation that is thrown around by those who want to demean anyone who opposes this bill. It is the racist slur; this totally outrageous claim; that anyone who opposes this legislation is somehow racist. It is a slur that has been leveled at us explicitly by some and implicitly by others. The executive director of the Cape York Land Council, Mr Noel Pearson, for example, made the charge explicitly at the National Press Club on 10 November when he said that those who were opposed to this legislation 'are returning to a racist debate that occupied Australia in the nineteenth century'; Hewson, J, 23 November 1993, \textit{House Hansard}, p3405.

diversity of its membership made it difficult for the CAR to have input into the ‘day to
day detail of the debate.’ The Council did become actively involved in the debate,
although as a mediator only, when it hosted a meeting at Eva Valley of four hundred
Aboriginal and Torres Strait Islander representatives in 1993. Beyond this, however, the
CAR aspired to leadership only on the broad thematics of the debate, and sought to focus
reconciliation on the rights and position of Indigenous peoples, and on a negotiated
resolution of outstanding issues.

Noel Pearson, who had earlier described the date of the Mabo judgment as ‘the date of
Australia’s redemption,’ expressed his regret that Mabo, a decision premised on the
principle of inclusion, had become a ‘symbol of government neglect and exclusive
extravagance in favour of minorities.’ John Howard had played on that discontent
when, returned to the leadership of the Liberal party, he based his 1996 campaign on the
slogan, ‘For All of Us.’ That slogan implied a liberal equality of citizens, and a rejection
of ‘special measures’ for minority groups. But the Liberal party has also played its part in
creating that atmosphere in the first place. The backlash against Mabo, the surfacing
racism, the critique of ‘special rights’ which might fracture the unity of the nation: all of
these things were fostered by the Coalition in the eighties and early nineties, and were
portents of what was to come in the late nineties.

333 ‘Rocky Path to Reconciliation’ Sydney Morning Herald, March 11, 1996, p15. Also see Pearson, N,
‘Aborigines “Near the end of their struggle”’ Sydney Morning Herald, May 28 1997, p8. See also ‘PM to
criticism that his ‘obsession’ with Aboriginal affairs was distracting him from the ‘main game.’

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The March 1996 election saw the end of thirteen years of Labor government. The newly elected Howard Coalition government soon discovered a multi-billion dollar 'black-hole' in the federal budget and proceeded to cut funding in a number of politically sensitive areas. ATSIC saw its budget cut by some $400 million. This was the political context in which the *Wik* decision on the rights of pastoralists and native title holders was received. In December 1996 the High Court ruled that native title and pastoral leases could co-exist in the same piece of land. As with *Mabo*, the Court's decision set off a chain of heated disputation that was to strain both the reconciliation process and the relationship between the judiciary and the legislature. The National Farmers Federation (NFF) claimed that Indigenous leaders and the former Labor government had agreed with it that a valid pastoral lease extinguished native title. It argued that the High Court had effectively circumvented the political process by insisting on a construction of the statute contrary to that which the parliament had intended. It demanded amendments to the *Native Title Act* to secure the title of pastoralists. The government, describing the *Wik* decision as 'unworkable', agreed.

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335 See also Bennett, S, *op cit*, p62.

335 *Wik Peoples and Ors v State of Queensland and Ors* (1996) 141 ALR 129.

336 Donald McGauchie, President of the NFF, told *Walking Together* that 'the farmers of Australia do not want to abolish native title. Since *Mabo*, we have accepted the concept of native title and the NFF supported the Native Title Act of 1993, on the basis of what we understood to be the negotiated agreement
Senator Nick Minchin was to be responsible for the amendments to the Native Title Act 1993 but his opposition to the principle of native title gave rise to questions about his suitability for such a task. Minchin had vociferously opposed the 1993 legislation, describing it as ‘inherently racist...because only people of a particular race can now claim this new title.’ He had not experienced any significant conversion in the intervening years, describing the right of native title claimants to negotiate with miners as a ‘special privilege’ in 1996. He also reversed the link made by the ALP when in office between native title and reconciliation. The Coalition position was no longer that the two issues were separate, but that native title was now a potential threat to reconciliation:

the fear I have, as someone who is committed to reconciliation, is that you’ve got to avoid the risk native title itself becomes a vehicle for creating a lot of damage to the reconciliation process itself...where Aboriginal people have these special rights that other Australians don’t have, that’s how you get the potential backlash. 337

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337 ‘Chorus of Criticism for Howard’s Negotiator’ Sydney Morning Herald, June 1, 1996, p34. Minchin also tended to equate reconciliation with compromise. In relation to the Wik amendments to the Native Title Act 1993 he said: ‘clearly agreements about native title, and the mutual respect needed to achieve them, are fundamental to coexistence, and to reconciliation...no interests, including indigenous interests, pastoralists and the mining community, gained everything it wanted from the governments Bill which maintained a fair and careful policy balance-surely such compromise, and provision for a legal basis for co-
Howard agreed: the *Native Title Act 1993* ‘has been a disaster for reconciliation in the Australian community. What the existing *Native Title* Act has done, because of its flawed operation, because of its manifest complications, is contribute to rather than subtract from division and argument within the Australian community.’

Conservative state premiers in Western Australia and Queensland pressed hard for amendments to extinguish native title on pastoral leases and to remove the right to negotiate on mineral developments. The federal National party was no less insistent on the same point. Party leader Tim Fischer criticised the High Court, calling for the appointment of ‘capital c conservatives’ to put an end to the Court’s perceived activism. Fischer promised his rural constituency ‘bucket-loads of extinguishment.’ When it became apparent that complete extinguishment was not an option, Fischer promoted the compromise deal as ‘effective extinguishment.’ As for Indigenous persons, Fischer asked them to be patient, promising that reconciliation, although on hold for the duration of the native title debate, would be back on track once *Wik* had been dealt with: ‘If it was that the Senate passed the legislation on or about the ides of march, the day after that would be the first day of a renewed effort by myself as deputy PM...and by the government to renew energy and effort into reconciliation.’

338 David Russel QC, President of the


339 Then Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Dodson hit back; Fischer was ‘threatening the Australian people and holding us to ransom over reconciliation because the government can’t get it all its own way.’ He described the Wik Bill as ‘racially discriminatory, unjust and probably unconstitutional.’ ‘Fischer’s Deal: Wik First, Then We Talk’, *Sydney Morning Herald*, January 15, 1998, p5.
Queensland National Party, pointed to the Wik decision as a betrayal of rural Australia: 'Rural Australia feels absolutely betrayed (by the Wik decision)...the government should not discriminate, that is, there should not be separate classes of land title that are available to people based on race only.'

Donald McGauchie of the NFF said that 'the Wik debate is about land tenure': 'It is regrettable that other issues such as the "stolen children" and reconciliation should become so enmeshed with this debate about land tenure.' And repeating Minchin, the NFF President said that 'the Wik decision itself has done enormous damage to the reconciliation process.' McGauchie said that Church leaders, Aboriginal leaders, lawyers and academics were responsible for that damage. But there was an element of the surreal here- the NFF later ran a highly offensive national advertising campaign featuring Aboriginal and non-Aboriginal children playing Twister. At that point Aboriginal groups refused to share the same table as the authors of such a 'putrid' campaign.

The separation of native title from reconciliation was perhaps at odds with the government's professed understanding of reconciliation as a 'practical' enterprise. Although highly symbolic and tied up in the public understanding of Australian history, via terra nullius and the Mabo judgement, native title is also a supremely 'practical' right. Native title concerns the rights of Indigenous peoples to access, use and care for their traditional lands. The High Court ruled in Wik that Indigenous peoples and

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pastoralists could have co-existing rights in the same land. In that case, native title was a practical measure by which Indigenous and non-Indigenous could co-exist. But the government, under pressure from pastoralists and mining interests, repudiated Wik as 'unworkable', and in relation to the rights of Indigenous peoples, as offensive to the equality of all Australians. Native title, as a right available only to some Indigenous peoples, was seemingly at odds with the proposition that all Australians ought to enjoy the same legal status.

The spectre of a double dissolution 'race' election was raised when the Prime Minister failed to secure the passage of his Ten Point Plan in the Senate, but was eventually averted when the independent Senator for Tasmania, Brian Harradine, agreed to a compromise deal which nevertheless reduced the rights of native title holders. Despite the CAR's aspiration to leadership, and the insistence of Indigenous groups that they be consulted on any proposed amendments to the Native Title Act, the 'Wik Bill' was finalised without any significant Indigenous participation. The compromise deal was largely a product of negotiations between Senator Harradine and the government. In any event, Dodson now openly mused that the reconciliation process was 'going backwards.' Ian Viner, former Aboriginal Affairs Minister in the Fraser government and then deputy Chair of the CAR, said publicly that the government had a 'negative attitude' towards

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342 Howard described the compromise as a 'fair compromise' that would 'bind us together, and not put apart sections of the Australian community.' Beazley argued that Howard had desired a race based election but had been 'bitten by another force at least partly of his own creation, in the form of One Nation.'; 'Wik Deal Scuttles Race Poll' Sydney Morning Herald, July 2, 1998, p1. Aden Ridgway said the deal was 'opening the way for a new wave of oppression'; 'Wik: The New Deal' Sydney Morning Herald, July 3, 1998, p7.
reconciliation. In December 1996 Dodson described the political situation as a ‘period of ignorant rhetoric and racial tension.’

The Stolen Generations and the Question of an Apology

The apology debate which followed the release of the *Bringing Them Home* report in 1997 is discussed in more detail in Chapter Four, which links that report to the dominant rhetorical trope of later reconciliation discourse; the language of healing. This Chapter only seeks to place that report and the debate which it sparked in the broader context of the reconciliation process itself. Some of the themes of the report had already featured, in a more abstract and general way, in the discourses of reconciliation. Australian history, national guilt and the unity of the nation were three of those themes which would also mark the debate on a national apology to the members of the Stolen Generations and their families.

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243 Council for Aboriginal Reconciliation, *Walking Together*, Special Edition, December 1996. In his 1999 Lingiari Lecture Dodson went further, claiming that ‘there is a serious move afoot in this country, by very powerful forces at the highest levels of government, business and society to return the position of Indigenous Australians to the situation that existed before the Wave Hill strike in 1966’ *Lingiari Lecture* 1999. The Howard government’s Wik amendments, and its failure to appoint a new Aboriginal and Torres Strait Islander Social Justice Commissioner, also earned Australia the dubious distinction of being the first western nation to be placed on the early warning list of the United Nations Committee on Racial Discrimination; ‘Ruddock Helps Cool Tensions With Fire Side Chat’, *Sydney Morning Herald*, February 2, 1999, p2.
Bringing Them Home was released in May 1997, less than six months after the Wik decision. To the dismay of some, including the NFF, the two issues of an apology to the Stolen Generations and native title ran together, and were seen as being the two issues testing the government's commitment to reconciliation. But the two issues were also linked conceptually, or at least bore something of a resemblance for those willing to consider them historically; the policy of forced child removal related to the history of relations between Indigenous and non-Indigenous peoples in Australia. Child removal was, in a microcosm, the history of past injustice towards Indigenous people, and Wik, like a bad memory, was a piece of history repeating itself.

'Trauma' and 'healing' were feelings and needs extrapolated from the particular experience of removed children and their families, to Indigenous people collectively, and to the nation as a whole. But if any healing was to come of this, it was a curious kind of treatment. The atmosphere was one of indignation, conflict and division. Some Australians were left wondering where their nice, corporatist, two-party social democracy had gone. Drusilla Modjeska, speaking at the 1997 NSW Premier's Literary Awards, summed up the mood of the times:

it seemed to me during this unusually bad winter, when it was indeed bitter once one got beyond the trees, that this too is a time of upheaval and conflict in which ways of thinking, and perhaps even of writing, are being challenged and changed in most painful ways. I am sure I am not the only
one to have had the sensation of waking up to find myself in an Australia I barely recognised. Or rather, more to the point, did not want to recognise.\textsuperscript{344}

John Howard, meanwhile, was defending his conservative credentials to Australia’s talkback radio audiences:

I’m the Prime Minister who took money out of the ATSIC budget. I’m the Prime Minister who was attacked by the media of this country (for doing so)....I’m the bloke that has been under constant attack from Aboriginal leaders for being insensitive to their situation....I’m also the Prime Minister who belonged to the party that voted against the \textit{Native Title Act 1993}.\textsuperscript{345}

Tensions between the government and the CAR leadership eventually became so great that Dodson and deputy chair Ian Viner decided not to seek re-appointment to the Council. That particular episode degenerated into farce when Dodson attempted to reengage with the government by offering to accept reappointment on certain conditions. But it was too late. Howard announced that the Chair had already been offered to Evelyn Scott, and he could not, in good faith, retract the offer. Geoff Clark was later to say that Indigenous leaders had kept faith with the reconciliation process whilst Dodson was chair of the Council; ‘he was our hero.’\textsuperscript{346} Certainly Dodson had been willing to continually stress the link between reconciliation and justice, and to advocate, as a means

to reconcile the nation, a treaty or 'framework agreement' between Indigenous and non-Indigenous peoples. He had, moreover, attempted to connect the realpolitick of native title to a larger understanding of the issues at stake in the reconciliation process.

The High Court decision in *Mabo* was a defining moment on the road to reconciliation, a milestone. The justices found that the historical doctrine of *terra nullius* was unfounded, based on 'little more than bare assertion'.

At that moment our relationship with one another changed forever....From that moment, our nationhood, our moral community, our common law, has become interwoven with the fact of native title. A just and fair resolution of native title has become the ultimate test of Australian justice, of Australian decency, and of our national leadership.\(^\text{347}\)

The appointment of Evelyn Scott as Council Chair saw the development of a more polite form of advocacy from the CAR. Scott was patient and enduring, and less inclined to mention treaties than was Dodson, or to say of *Wik*, as Dodson had, that the government's native title legislation was the 'final poisoning of the last waterhole'.\(^\text{348}\) Her resolution of the immediate political problem facing the CAR was to reorient the direction of the Council's mission. Dodson had said of Howard as he departed, 'if he is

\(^{347}\) Dodson, P, *Address to the National Press Club*, November 28 1997: 'In recent times we have seen that commitment from the Parliament on reconciliation weaken and dim. It was a multi-party commitment to which the Government is no longer.... These issues of social justice, an apology and fair dealing on *Wik* are issues on which we agree. Therefore we are forced to disagree with the Government. Sadly, reluctantly but passionately disagree.'
def, let him remain deaf. He has closed his hears.' The CAR under Scott continued to look past the elected leadership of the country to claim an independent support base amongst the 'people's movement for reconciliation.'  She affirmed the importance of reconciliation in terms of its importance to the future of Australia as a 'mature, harmonious society at peace with itself.'

By 1997 official CAR publications were putting increasing distance between the Council and the government. The CAR now sought to base its legitimacy not on the bipartisan support of the major parties, or its own moral authority, but on the claim to widespread public support. The 1998-2000 strategic plan, for example, listed the aim of the third Council as 'supporting and maintaining the people's movement for reconciliation.' The people's 'embrace' demonstrated the maturity of the Australian people. The Council's own polling, however, demonstrated how 'thin' much of that support was- just as Labor and the Coalition had been able to support the establishment of the CAR in 1991 because they understood reconciliation in different ways, it was possible for Australians with markedly different political opinions to express an in-principle support for reconciliation. The flexibility of the term hid the deeper divisions on issues of unity, equality, Indigenous rights and an apology.

348 'Howard to Push for Bipartisan Motion' Sydney Morning Herald, 28 May 1997.

349 As early as its first triennial strategic plan the CAR had pointed to a mandate from, or to be representative of, the Australian people: 'the Council is representative of the Australian community and is responsible to that community, particularly through the parliament, for charting the direction for change along the steps outlined above'; CAR, Strategic Plan 1991-94, www.austlii.edu.au/au/orgs/car/triennial_plan/9.html. See also CAR, Strategic Plan 1998-2000, www.austlii.edu.au/au/orgs/car/stratplan/Pages/intro.htm

There is some irony to be found in the early debates on native title and its relationship both to national unity and to reconciliation. That irony is the disjunction between Coalition rhetoric when in opposition and the development of a highly divisive popular debate on Aboriginal affairs whilst it was in government. The Coalition in opposition had repeatedly conjured the image of a nation divided on the lines of race. John Howard and Chris Miles accused the Hawke and Keating Labor governments of setting Australian against Australian, of denigrating Australian history, and of making policy that was itself racist. The Coalition claimed that it would govern in the interests of all Australians, regardless (or, more properly, without regard to) race. It would bring an ever greater unity to Australian national life. The period 1996 to 2000 was marked, however, by unprecedented controversy. 1996 saw the election, to the seat of Oxley in Queensland, of the dis-endorsed Liberal Party candidate Pauline Hanson. Hanson’s maiden speech to parliament sparked what appeared, from one perspective, to be a sea-change in Australian political debate. Hanson denied that Indigenous peoples were the most disadvantaged group in Australia, and claimed instead that a ‘reverse racism’ applied to ‘mainstream

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351 Hanson was expelled from the party for her refusal to retract statements made in a letter to a Queensland newspaper concerning the welfare entitlements and the supposedly ‘privileged’ status of indigenous persons. Hanson ran as an Independent (although still with the benefit of Liberal party endorsement on the ballot paper---it was too late to change it) and won anyway. There is already a large literature on Hanson and the One Nation party; see for example Two Nations: The Causes and Effects of the Rise of the One Nation Party in Australia.
Australia. Labor and Coalition governments were encouraging ‘separatism’ by providing Indigenous specific services and by recognising Indigenous land rights. Hanson evoked Sir Paul Hasluck’s distinction between a racial and a social problem:

A social problem is one that concerns the way in which people live together in one society. A racial problem is a problem which confronts two different races who live in separate societies, even if those societies are side by side. We do not want a society in Australia in which one group enjoy one set of privileges and another group enjoy another set of privileges.\(^{352}\)

Hanson further endorsed Hasluck’s image of a nation united: ‘Hasluck’s vision was of a single society in which racial emphases were rejected and social issues addressed.’ She continued, ‘to survive in peace and harmony, united and strong, we must have one people, one nation, one flag.’ Hanson attacked the CAR and offered her own definition of reconciliation:

Reconciliation is everyone recognising and treating each other as equals, and everyone must be responsible for their own actions. That is why I am calling for ATSIC to be abolished.\(^{353}\)

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\(^{353}\) David Oldfield similarly argued that reconciliation will have occurred ‘when all Australians are genuinely treated equally, when there are no special benefits based on race, when colour and cultural backgrounds play no part in the determination of the delivery of government services.’ Oldfield continued:
Howard ruled out a direct confrontation with Hanson, arguing that her popularity would fade when the public realised she offered no solutions to policy problems.  

The 'special rights' or 'reverse racism' critique of Aboriginal affairs policy did not begin with Hanson but has a much longer Australian pedigree. It is embedded in the contradictions of assimilation policy, contradictions as evident in Hasluck as in Howard and Hanson. The contradictory nature of what justice entails as between Indigenous and non-Indigenous Australians is taken up in chapter five of this thesis. For now I only wish to note the recent history of this critique. C.D. Rowley had noted in his 1971 work that the 'special rights' critique of Aboriginal affairs policy was circulating in the 1960's. Patrick Dodson sounded a warning in his Regional Report of Inquiry into Underlying Issues in Western Australia in 1991. Dodson cited the study commissioned by the federal government in 1984 and conducted by Australian National Opinion Polls, 'Land Rights: Winning Middle Australia':

‘When we are truly one people, with a true understanding and acceptance of the past and, more importantly, a commitment to a common and positive future as Australians—only Australians and nothing else—then we may well have reached what so many call reconciliation.’ Extract from the Legislative Council Hansard of 04/04/2000 - Corrected Copy, p4018.

See also Bennett on equality and reverse racism; White Politics and Black Australians, pp25-27. Rowley noted in 1971 that the ‘special rights’ critique of Aboriginal affairs policy was also current in the 1960’s; Aboriginal Policy and Practice, Vol Three, p197.

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354 See, for example, 'PM Ignores Warnings of Hanson Furore', Sydney Morning Herald, May 1 1997. p9.
355 See also Rowse, T, Obliged to be Difficult, p221.
the attitude situation in white Australia is quite monstrous: the problem is not that white Australians have little sympathy for or appreciation of the plight of Aborigines; rather the problem is that white Australians actually regard Aborigines as over-privileged, in receipt of overly generous Government hand-outs, and living on the benefit on undeserved concessions.\(^{357}\)

The Coalition did not take an altogether coherent stand on Aboriginal affairs policy throughout the official reconciliation period. It shifted between a position as crude as Hanson’s (rejecting, for example, the *Native Title Act* as plainly and simply racist when the position was altogether more complicated) and an alternative position where it supported, at least in some cases, Indigenous specific programs. This latter position can be distinguished from that taken by Hanson. Whilst the Coalition did not accept that Indigenous peoples enjoyed any distinctly Indigenous rights or that they had any special claim on government services arising from their prior ownership or occupation of Australia, it did accept that Indigenous persons were, on almost every measure, the most disadvantaged in Australia. Whilst disadvantage was to be addressed as an incident of citizenship rather than indigeneity, the Coalition did continue to fund some Indigenous programs. Indigenous specific programs in housing, employment and health, for example, were thought of as ‘special measures’ or temporary catch-up programs and in that sense were compatible with ‘equal’ citizenship. Hanson, on the other hand, rejected both the claim to rights stemming from indigeneity and the need for Indigenous specific programs.

ATSIC and native title were symptomatic of a reverse racism and therefore ought to be abolished or extinguished. Real equality meant identical treatment.

There is, despite this difference, a certain ideological resemblance between John Howard and Pauline Hanson manifested in particular ways of talking about the nation, rights and political speech. Comments from Coalition back-benchers highlighted the way in which expressing racist sentiment had become a protest against ‘political correctness’ even before the election of Howard and Hanson in 1996. Howard argued that return of the Coalition to the government benches marked the end of ‘political correctness’ and heralded a new freedom in Australia political debate. But the quality of some contributions to that debate left much to be desired. Western Australian Liberal Senator Ross Lightfoot made headlines with his thoughts on the relative position of Indigenous peoples on ‘the colour spectrum.’ Hanson was not the first but was perhaps the unluckiest Liberal to break ranks on ‘the Aboriginal problem.’ In the run-up to an election, her refusal to retract her comments brought dis-endorsement and national publicity. Party dis-endorsement did not however sever the ideological ties between Hanson and at least some sections of the Coalition. Then leader of the National Party in NSW Ian Armstrong highlighted those links when he told the 1997 National Party State Conference in Sydney that ‘Hansonism’ was the extension of National Party policy.

[358 Lightfoot said that Aborigines in their ‘natural state’ were at ‘the bottom of the colour spectrum’; *The Australian*, 17 March 1997, cited in Bennett, S, *op cit*, p17. Patrick Dodson later argued in his *Linguari Lecture* that ‘the spirit of the ten percent that rejected the basic decency of the “Yes” vote in 1967 have not been swallowed up in the pit of their own intolerance. They have taken new guises...they present their arguments in the guise of academic and legal sophistry. They use the vehicles of institutions created to promote their particular view. The hard men of Vestey’s still walk the corridors of power.’]
Hanson's maiden speech had been National Party policy expressed in its simple form and any objection that the leader thought fit to make was a question of degree, not of philosophy.\textsuperscript{359}

Then deputy leader of the ALP and former Foreign Affairs Minister Gareth Evans set out a Labor vision of Australian society in response to Hanson's maiden speech. He described his commitment to 'the evolution of Australia as a genuinely multicultural society with a wholly new kind of relationship with our regional neighbourhood.' This Australia had 'come of age' and was a 'tolerant, outwardly looking, genuinely multicultural society, revelling in the fact of our diversity...a country genuinely committed for the first time to reconciliation.'\textsuperscript{360} This vision of Australia as a place of joyous diversity was at odds, or was at least uneasily assimilated too, the vision of Australia as a single nation united by uniform political institutions and perhaps also by a certain uniformity of culture. It was this image that was directly repudiated by Hanson. A prosperous, multicultural, reconciled Australia may in fact have been an artefact of ALP policy which too many Australians had simply taken on faith. Which is not to say that cultural diversity or Indigenous self-determination, for example, are not lived realities with an existence autonomous to government policy. But that it might have been a

\textsuperscript{359} 'Coalition Split over Apology to Aborigines' \textit{Sydney Morning Herald}, June 16 1997, p8. Rowse argues in \textit{Obliged to be Difficult} that a 'fair description of the political mission of the John's Howard's Minister for Aboriginal Affairs (John Herron) was 'to help render the member for Oxley redundant.' P220. See also Leach, M, 'Hansonism, Political Discourse and Australian Identity' in Leach, M, Stokes, G and Ward, I.\textit{The Rise and Fall of the One Nation Party}, pp42-56.

mistake to think that there was, during the Labor years, a consensus on what Australia
should be.

Hanson had not evoked a ‘latent racism’ in Australian political culture. This critique of
Indigenous specific service delivery had been circulating in Australian politics
throughout the years of Labor government, and it is inconceivable that either Hawke,
Keating, Beazley or Howard were unaware of it. The Coalition was itself adept at using
similar arguments, and had done so in the debates on ATSIC and on native title. At least
in that sense, One Nation is not an ‘aberration’ in Australian politics. One Nation
rhetoric is not a new kind of political speech. Nor does One Nation possess a vision of
Australia which is particularly novel. It is self-consciously a party of the past, of an older
Australia; ‘They say I want to take Australia back to 50’s and 60’s. Well I want to know,
what’s wrong with that?’ The same rhetorical tropes, the same vision of the nation and
the same emphasis on a strict liberal equality have all done the rounds in Australian
politics for many years. And those years are not far removed from our own time. In fact,
these political images never left us. That place described by Keating as the Australia of
the bad old days, insular, xenophobic and racist, was always at work in the counter-
currents of political rhetoric kept alive, in part, by the Coalition during the period of
Labor government.361 More fundamentally, the drive towards a uniform demos based on
an identity amongst the citizens is an unfinished modernist project whose Australian
roots include the White Australia Policy as much as Aboriginal assimilation.362 The

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361 See also Adams, P, ‘Pauline and Prejudice’ and Grattan, M, ‘Pauline Hanson’s Hijack of John Howard’
in Manne, R (ed) Two Nations.
The CAR ceased to exist by operation of the *Council for Aboriginal Reconciliation Act* on New Years Day 2001. The CAR acknowledged that the much desired reconciliation had not been achieved. Council Chair Evelyn Scott had earlier acknowledged, in the context of the Howard government's refusal to apologise to members of the Stolen Generations, that reconciliation would not be possible by the end of the CAR's ten year term. Scott argued that the people's movement for reconciliation was, however, 'unstoppable.' The reconciliation process would outlive both the Coalition government and its present institutional shape. Nevertheless, the CAR recommended in its final report that the reconciliation process should also be continued in an institutional sense. It recommended and drafted legislation to establish three-yearly reconciliation conventions, and recommended the establishment of a negotiation process by which Indigenous...
peoples and the government could reach agreement on ‘unresolved issues for reconciliation.’ Unresolved issues included, but were 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; recognition of Aboriginal and Torres Strait Islander customary law; Aboriginal and Torres Strait Islander self-government and regional autonomy; a bill of rights that specifically protects the rights of Aboriginal and Torres Strait Islander peoples; and principles for negotiated outcomes at other levels. The CAR had attempted, that is, to put treaty politics back on the political agenda. The official reconciliation process had begun in an ambiguous relation to treaty politics and finished with the question of Indigenous sovereignty still unresolved. The reconciliation process, rather than being an escape from the issue of Indigenous rights to land and self-government, ended as a return to that issue.

There are further difficulties in defining an end-point for reconciliation. The Australian reconciliation process ended, institutionally, without ever having finished in a substantive sense. And whilst the Howard government could be criticised for its failure to offer a parliamentary apology to the members of the Stolen Generations and for its generally negative approach to Indigenous affairs (particularly on native title), it seems that the government itself cannot be held responsible for the failure of reconciliation in the broader sense. The concept of reconciliation, derived from Christian theology, does not lend itself easily to problems of political justice. The problem with end-points was not simply the problem of finding words acceptable to all parties. The question of what it

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364 See CAR, Reconciliation Implementation and Framework Agreements Legislation: Discussion Paper,
might take to complete an institutionalised reconciliation process is a problem already present in the language of reconciliation. David Oldfield and Evelyn Scott were on common ground (although they were not equally happy to be there, and nor were they there for the same reason) when they said that the reconciliation process could not be completed on time. Scott was referring to disagreements with the Coalition government regarding the apology debate, Oldfield was making the more general point that reconciliation was an ambiguous notion. If no one had been able to come up with a complete and agreed definition of what reconciliation was, how was anyone supposed to know when it had finished? Oldfield asked

the question of when reconciliation will be reached and by whose judgment reconciliation will be considered to have been achieved. Have a panel of experts been appointed? Will solely Australians of Aboriginal descent make that determination? Regardless of by whom it may be made, by what criteria will such a determination be made? Will the issue be settled by money, housing or land? Will it be settled by the continuation of, and an increase in, special benefits? If so, will this special treatment be expected to last forever?365

Oldfield’s critique of reconciliation goes to the supposedly racist elements of a process which recognised that Indigenous peoples had a distinct status within the nation, and that they were entitled to ‘special benefits’ as a result of past mistreatment and contemporary

disadvantage. His comments on the open-endedness of reconciliation might be thought to be of only secondary importance to that critique. But Oldfield, whether he knew it or not, was touching on one of the great difficulties encountered when applying a religious idea to a problem of earthly political justice. Without reference to the divine, and stripped of sacramentality, how could this project ever succeed? Reconciliation, incomplete on New Years Day 2001, may have been impossible, or always necessarily incomplete or insufficient, from the outset.
CHAPTER FOUR

‘OH YES, THAT HAPPENED, SORRY’:

THE POLITICS OF HEALING
The most significant image of later reconciliation discourse is the image of ‘healing.’ The reconciliation process was connected, through this image of healing, to those great Christian images of guilt, forgiveness, penance and unity. Out of the Stolen Generations debate came new ways of talking about the nation, about its moral status, and about the relationships between its different political constituencies. Some participants in the reconciliation process also applied a derivative Christian penitential technology to the imagined moral corpus of the nation. An apology, sincere and delivered in the appropriate ritualised form and place (in the parliament, by the government) followed by acts of satisfaction, would put an end to the moral disability afflicting the nation, and would allow not just national unity but national growth, or even the spiritual fulfilment of the nation. But this task of reconciliation, rather than bringing the parties to any fundamental agreement or, less ambitiously, to some kind of quiet and patient dialogue, was only going to get more rancorous, more difficult, and, to borrow another metaphor, more painful.

Early CAR healing imagery is found principally in connection with women’s and religious organisations. But it was the release of HREOC’s *Bringing them home* report into the child removal policies of Australian governments and churches that sparked the debate on national guilt and a parliamentary apology and sent the reconciliation process

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366 The bulk of references to healing are made in reference to the role of faith groups in reconciliation.

From 1993 Australian religious organisations have staged a ‘Week of Prayer for Reconciliation.’ This event was the outcome of a meeting between representatives of faith groups and the CAR on 29 January 1993 in Canberra. The Week of Prayer coincides with the celebration by some churches of Social Justice Sunday.

Participants in the Week of Prayer include the Catholic, Anglican, Uniting, Presbyterian, Lutheran and
off in the direction of ‘telling’ and ‘healing.’ The origins of that report lie in the campaign by the various state and territory Link-Up agencies to reunite members of separated families. The Royal Commission into Aboriginal Deaths in Custody had also pointed to the connection between child removal and later imprisonment. The Keating government promised an inquiry as part of the social justice response to the Mabo judgment. The terms of reference for the inquiry, to be undertaken by HREOC under the leadership of Sir Ronald Wilson and Mick Dodson, were issued and subsequently amended by then Attorney-General Michael Lavarch in 1995. Bringing Them Home was released during the May 1997 Australian Reconciliation Convention, amidst the Wik native title debate, in a political climate already marked by great controversy.

*Bringing Them Home* documented the experiences of Indigenous children removed from their families by various Australian governments, children who collectively became known as the ‘Stolen Generations.’ The report detailed numerous instances where the removal of a child had resulted in long-term psychological illness, including trauma, grief and depression, and associated self-damaging behaviour such as self-mutilation, substance abuse and suicide. The deliberate effort to assimilate Indigenous people into the wider Australian community was described by HREOC as ‘genocide’ within the meaning of the *International Convention on the Prevention of Genocide*, a convention to which Australia is a signatory. 367 That particular reference summoned up a debate on the

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**Greek Orthodox Churches**, as well as the Executive Council of Australian Jewry and Islamic, Hindu and Baha'i faith groups.

367 Genocide was first defined in a detailed way in the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*. Australia ratified the Convention in 1949 and it came into force in 1951. Genocide is defined as ‘any of the following acts committed with intent to destroy, in whole or in part, a
‘good intentions’ of assimilationists that HREOC insisted was strictly irrelevant to the definition of genocide. But the word was meant to shock; Wilson admitted that it was used ‘knowing it was a nasty word, an offensive word ...to emphasise the depth of the inhumanity that underlay these policies, however well intentioned they were.’

Numerous submissions from Link-Up agencies and Indigenous health organizations pointed to the psychological impact of child removal and to the need for a national parliamentary apology. Link-Up submitted that ‘insofar as reparation and compensation can assist us to heal from the harms of separation, it is our right to receive full and just reparations and compensation for the systemic gross violations of our fundamental human rights.’

The Sydney Aboriginal Medical Health Unit submitted that ‘this tragic experience, across several generations, has resulted in incalculable trauma, depression and major mental health problems for Aboriginal people...This process has been tantamount to a continuing cultural and spiritual genocide.’ Psychiatrist Jane McKendrick submitted that ‘unless there has been proper recognition of what has been

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national, ethnical, racial or religious group, as such: a. killing members of the group; b. causing serious bodily or mental harm to members of the group; c. deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; d. imposing measures intended to prevent births within the group; e. forcibly transferring children of the group to another group’ (article II).

HREOC, Bringing them home...Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families.

369 Bringing Them Home... Recommendation 3: ‘That, for the purposes of responding to the effects of forcible removals, ‘compensation’ be widely defined to mean ‘reparation’; that reparation be made in recognition of the history of gross violations of human rights; and that the van Boven principles guide the reparation measures. Reparation should consist of; 1. acknowledgment and apology, 2. guarantees against repetition, 3. measures of restitution, 4. measures of rehabilitation, and 5. monetary compensation.’
done, people cannot really begin to heal properly. An act of recognition of Indigenous people's suffering would help to overcome internalised guilt. Both an apology for past wrongs and recognition of wrong doing by the payment of money compensation were 'an essential part of the healing process.'

HREOC concurred. It recommended that the Commonwealth government offer a parliamentary apology to members of the Stolen Generations and their families for the child removal policies of past Australian governments. The first step in any healing process for victims of gross violations of human rights 'must be an acknowledgment of the truth and the delivery of an apology.' Several Christian churches and welfare agencies offered apologies to members of the Stolen Generations in their submissions to HREOC. The Chair of the Bishops Committee for Social Welfare, the Chair of the National Aboriginal and Torres Strait Islander Catholic Council, and the National Director of the Australian Catholic Social Welfare Commission made a joint submission:

On behalf of our constituent national groups we sincerely and deeply regret any involvement Church agencies had in any injustices that have been visited upon Aboriginal and Torres Strait Islander families.

371 HREOC, op cit, pp30-31.
372 ibid, p30.
373 ibid, p31. The Australian Conference of Leaders of Religious Institutes, meeting at Annandale on June 11, 1997, issued an apology on behalf of Christian orders and priests for their role in the policy of child removal. Media Release. The Uniting Church had already apologized for its involvement in past injustices.
The Anglican Church Social Responsibilities Commission and the Kimberly Sisters of St John also ‘apologised’ in their submissions to the Inquiry. The Catholic welfare organisation, Centacare, said that it ‘deeply regrets the enormous suffering.’\textsuperscript{374} The Australian Catholic Social Welfare Commission argued that there needed to be a compensation package ‘in order that true reconciliation can occur.’\textsuperscript{375} HREOC recommended that individual members of the Stolen Generations and their families receive monetary compensation, and that counselling services be provided. A number of these suggestions were taken up by the government in its $63 million dollar response to the report. There was to be no monetary compensation, but it was the Howard government’s refusal to move a motion of apology in the Commonwealth parliament that proved most controversial.

A curious thing happened, however, in the passage of time between the report’s release and the Howard government’s ‘motion of regret’ in August 1999. The apology debate moved from the specific to the general, from the question of whether there ought to be an apology to the individual members of the Stolen Generations and their families, to the question of whether there was something to be said, something to account for, between these two generalised political constituencies. Whether, that is, colonial Australia could be called to account for the legacy of dispossession that still shapes the life experiences of so many Indigenous persons. \textit{Bringing Them Home} brought focus to what had

\textsuperscript{374} ibid, p31.
\textsuperscript{375} ibid, p40.
previously been a large and rather abstract claim about the link between present disadvantage and colonialism. The report fed into that claim and from this relatively modest beginning took on a far wider significance. It did not only document the signal failure of the Australian political and legal systems to protect the human and civil rights of Australian citizens. Although not expressed as such, the report went to the moral legitimacy of the Commonwealth. It resonated with the politics of protest and of indigeneity which had marked the Bicentennial celebrations and the debate over native title which followed the Mabo judgment. And it connected to the critique Howard, Blainey and other conservatives had been making of the Labor party and other ‘politically correct’ elites: that the report was an attack on Australian history, a narrowly focussed and potentially divisive exercise in guilt-mongering moralism.

All state and territory parliaments except for Western Australia and the Northern Territory passed motions of apology or regret. Howard offered a statement of his personal sorrow and empathy for removed children and their families, but he refused to offer a

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376 Howard, J, ‘Opening Ceremony Speech’, in CAR, Proceedings of the Australian Reconciliation Convention, Book One, p10. Then Coalition Aboriginal and Torres Strait Islander spokesperson Michael Wooldridge, by contrast, had recalled the words of Bishop Malcolm in his second reading speech to the Council for Aboriginal Reconciliation Act: ‘One of the most moving speeches that I heard in my time as shadow Minister for Aboriginal affairs was at a dinner that the Minister arranged and kindly invited me to attend when Bishop Malcolm—an Anglican bishop in northern Australia, an Aboriginal man—got up at the end of the dinner and gave a very moving speech about his hopes and aspirations for the future. They were quite simple. They were not hopes and aspirations that looked to the past at all; they were hopes and aspirations for the future. He said, ‘All that Aboriginal people want is for someone to say, “Sorry.”’ We cannot undo the past. We have to look to the future. The first essential step in that is just simply saying “Sorry.”’ Wooldridge, M, 5 June 1991, House Hansard, 4824.
national parliamentary apology to Indigenous persons past and present who had been harmed by the child-removal policies of earlier Commonwealth governments:

The Australian people do not want to embroil themselves in an exercise of shame and guilt... for the overwhelming majority of the current generations of Australians, there was no personal involvement of them or of their parents. To say to them that they are personally responsible and that they should feel a sense of shame about those events is to visit upon them an unreasonable penalty and an injustice...Australians of this generation should not be required to accept guilt and blame for past actions and policies over which they have no control. 377

Howard argued that those who sought an apology would never be satisfied with any admission of wrong-doing on the part of the Commonwealth because they sought an ever

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377 Howard, J, op cit, p10. Apologizing for the past acts of governments or other institutions is by no means unheard of. Yamamoto noted numerous instances where groups and organizations have apologized to the descendants of those to whom the group or organization behaved unjustly in the past; Southern Baptists apologized to African Americans for that denominations endorsement of slavery; the Evangelical Lutheran Church apologized to Jews for Martin-Luther's anti-Semitism; The United States and Canadian governments apologized to Japanese-Americans forcibly interned during World War Two; President Clinton apologized to native Hawaiians for the overthrow of the Hawaiian government by the United States in 1893; the Roman Catholic Church has apologised for the violence of the Counter-Reformation, for the Church's failure to defend human rights in totalitarian states, its complicity in the African slave trade, for abuses committed by Christian colonizers against indigenous peoples, and its marginalisation of women; Tony Blair apologised for the UK's role in the Irish potato famine; Queen Elizabeth apologized for the seizure of Maori lands and the extermination of the Maori people; Yamamoto, E, op cit, pp 52, 56-57. See also 'The Debate on National Identity and the Martin Walser Speech: How Does Germany Reckon with its past?' Kamenetzky, D S A I S Review, 19.2 (1999) pp257-266; also Degiser, P, op cit, pp 146-167.
greater ‘repudiation of the past and a greater sort of down-grading of the entire Australian community.’ But neither the architects of nor those who participated in the operation of child removal policies could be considered blame-worthy: they had acted, in general, with the best of intentions. Howard warned against judging yesterday’s policy by today’s standards, hence undercutting the placing of responsibility anywhere.

The child removal policy, although a ‘blemish’ on Australia’s national history, could not then give cause for any revision of what Howard saw as a triumphant progress narrative. Howard attacked those who described Australian history ‘as little more than a disgraceful record of imperialism, exploitation and racism’: ‘such a portrayal (of Australian history) is a gross distortion and deliberately neglects the overall story of great Australian achievement.’ Howard had greeted Pauline Hanson’s maiden speech as the end of ‘political correctness’ and as the beginning of a more open debate on the politics of race. He now suggested that, post-Wik, the ‘pendulum had swung too far’ in favour of

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378 Howard, J, Canberra Times, December 22, 1998, cited in Gardiner-Garden, op cit, p22. See also Rowse on accusations of ‘guilt’ from Chris Miles in the 1980’s, Obliged to be Difficult, p202. It is not self-evident, however, that a sense of shame or guilt in relation to the past is equivalent to a lack of national pride.

Shriver argues ‘there is an authentic, moral, even patriotic dignity to be regained in empirically accurate public ‘lamentation’ over evils of the past, sorrowfully confronted for the purpose of not repeating them. Indeed, a certain kind of pride glimmers here: pride in the readiness of persons and peoples to acknowledge the wrongs that, sooner or later, we all commit’: Shriver, D, ‘A Bridge Across Abysses of Revenge’ in Helmick, R and Petersen, R, Forgiveness and Reconciliation, p167.

379 Edward Said has argued that ‘nations are themselves narrations....the power to narrate, or to block other narratives from forming and emerging, is very important to culture and imperialism and constitutes one of the main connections between them.’; Said, E, Culture and Imperialism pp xiii, 10. Ricoeur also notes that historical narrative is ‘never ethically neutral’, but rather, is a ‘laboratory of moral judgment’: Ricoeur, P, Oneself as Another, p140.

380 Howard, J, op cit, p10.
Indigenous peoples. He sought balance by adopting the critique of ‘black-armband’ revisionist history popularised by historian Geoffrey Blainey.

A chorus of conservative commentators and politicians supported the Prime Minister. Shane Stone, then Chief Minister of the Northern Territory and presently Federal President of the Liberal Party, said that ‘notions of apologies are simply grandstanding and window dressing.’ Richard Court, then Premier of Western Australia, said that ‘it’s not a competition to see who can apologise first and who can apologise most.’ In NSW National Party leader Ian Armstrong suggested that

those who seek the apology will surely feel no satisfaction from a hollow form of words which some would believe would wipe the slate clean...Let us get on with Australia today...no apologies, no dwelling in the past. Let us get on with the future.

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381 ‘GG, Howard in Conflict over Wik’ in Sydney Morning Herald, May 28 1997, p1
382 Geoffrey Blainey had attacked supporters of multiculturalism and indigenous rights in his 1985 lecture at Mt Eliza Uniting Church. Blainey criticised the ‘vocal, richly subsidised multicultural lobby’ and stressed that Australia needed to be ‘one nation.’ He claimed that separatists and other ‘elites’ were spreading the view that Australian history was ‘largely the story of violence, exploitation, repression, racism, sexism, capitalism, colonialism and a few other isms.’ Blainey later coined the term, taken up by Howard in the mid nineties, of ‘black armband history.’ Each attempted to emulate a tactic used by fellow conservatives Margaret Thatcher and Ronald Reagan; as MacKenna puts it, to ‘conscript a vigorous, rosy and sanitised past to the service of jingoistic national identity’; McKenna, ‘Metaphors of Light and Darkness’ Melbourne Journal of Politics, vol 25, no 1, 1998, pp67-73.
383 ‘Reconciliation: Howard Apology too Little, or too Much for Other Leaders’ Sydney Morning Herald, May 28 1997, p8.
384 ibid.
The Labor party supported the call for a national parliamentary apology. Opinion did not divide neatly along party lines however. NSW Opposition leader Peter Collins supported the apology offered by the Carr Labor government. And Peter Nugent, the Coalition appointee to the CAR, disagreed with the Prime Minister and publicly supported the call for a national apology. The public debate continued to grow more heated even as more and more institutions and organizations offered their own apologies to the Stolen Generations. ‘Sorry Books’ filled with signatures as tens of thousands of Australian citizens expressed their own private sorrow in a very public and political fashion.

The apology debate ran like an open sore through Australian politics for over two years before Howard offered a compromise: the government would not support a parliamentary apology but it would move a motion of ‘regret’ in parliament. The statement of regret was co-authored by newly elected Democrat Aden Ridgeway, the second Aboriginal person elected to the Senate after Queensland Liberal Neville Bonner. Without specifically referring to members of the Stolen Generations or to the government policy of forced removal of Indigenous children, Howard moved that the House

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387 The refusal of the Howard government to offer an apology to the stolen generations generated a mass of unofficial apologies from citizens and a wide range of organizations. By National Sorry Day 1998 the CAR estimated that one million Australians had signed the ‘Sorry Books.’ Organisations to offer apologies included the Federation of Ethnic Community Councils of Australia, YWCA Australia, the NSW Police Service; Council for Aboriginal Reconciliation, Walking Together, No 22, July 1998. The Executive of the Local Government Association of NSW also apologized; Media Release, Wed 11 June, 1997.
expresses its deep and sincere regret that indigenous Australians suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel as a consequence of those practices.\footnote{Howard, J, 26 August 1999, \textit{House Hansard}, p7046.}

Howard considered that the parties to the reconciliation process could legitimately 'debate the detail of this or that practice. We can argue the detail of particular reports and particular propositions.' The purpose of the motion was not to descend again into those debates, but to 'generically express in relation to a number of issues the regret that the people of Australia feel for those past practices and the continuing consequences of them.' Like Keating's Redfern Park Speech, Howard's use of the collective 'our' seemed to suggest contemporary responsibility for the injustices of the past. If national history could in any sense be owned, then the living must lay claim to the ugly as well as the good: 'the greatest blemish and stain on the Australian national story is our treatment of the Indigenous people.'\footnote{ibid. My emphasis. See also Sparrow, R, ‘History and Collective Responsibility’ in \textit{Australasian Journal of Philosophy}, vol 78, no 3, pp 346-359.} But Howard slipped again from the language of the collective to an individualism that could not in any meaningful way make a claim to this kind of historical ownership: 'present generations of Australians cannot be held accountable...for the errors and misdeeds of earlier generations.'\footnote{ibid.} He doubled this liberalism in an historical relativism that suggested that even those Australians who had themselves been
directly responsible for past government policies ought not to be judged against current standards of justice:

Nor should we ever forget that many people who were involved in some of the practices which caused hurt and trauma felt at the time that those practices were properly based. To apply retrospectively the standards of today in relation to their behaviour does some of those people who were sincere an immense injustice, and I think that is understood by most people within the Australian community.\(^{391}\)

Reactions to the statement were mixed. Ridgeway had been criticised for his earlier compromise deal with the Prime Minister regarding the wording of the proposed new constitutional preamble and was again criticised for compromising on the word ‘sorry.’ Charles Perkins responded bitterly; ‘they can have as many reconciliation meetings as they want- they might as well have them for fun, look at pictures or say hello to each other. It’s a waste of money and a waste of time. There can be no reconciliation until he apologises.’\(^{392}\) Ridgeway defended his deal with the Prime Minister by arguing that the reconciliation process was ‘stalled’ and that something had to be done to get it moving again. Geoff Clark seemed to agree; Ridgeway ‘has got reconciliation out of the starting blocks. He’s rung the bell and turned their heads.’ As was his general practice, Clark interpreted this movement in the reconciliation process as a step closer towards a treaty- ‘the question now is whether John Howard really wants to negotiate a comprehensive

\(^{391}\) ibid.
settlement with Aboriginal people. Lowitja O’Donoghue, who was then co-patron of the Journey of Healing, (and who was later to be embroiled in controversy when she described herself as having been ‘removed’ rather than ‘stolen’) was reported as saying that the word ‘sorry’ was not necessary. She suggested, however, that the word ‘regret’ might be too soft.

The CAR continued to affirm the importance of an apology to the reconciliation process. Evelyn Scott had greeted the statement of regret as, ‘in effect...an apology.’ Deputy Chair of the CAR Sir Gustav Nossal, however, listed an apology as part of the ‘unfinished business of reconciliation.’ The Bridge Walkers in Sydney marched under a banner of ‘Sorry’ written in the sky by private individuals. And the Declaration Towards Reconciliation included the following apology:

As we walk the journey of healing, one part of the nation apologises and expresses its sorrow and sincere regret for the injustices of the past, so the other part accepts the apologies and forgives.

394 National Sorry Day was renamed as the Journey of Healing in 1998.
396 ‘However, personally I believe that the expression of regret in effect amounts to an apology, and is of great significance in itself. Moreover, taken as a whole, the motion is the most advanced commitment to reconciliation which Federal Parliament has yet made.” Evelyn Scott, Media Release, August 29 1999; http://www.austlii.edu.au/au/other/IndigLReg/car/1999/car221.html
The statement of regret had not put an end to the apology debate. Opposition Leader Kim Beazley promised an apology in the first sitting week of the new parliament if Labor were to win government. Howard, for his part, had moved as far as he would go. But if Howard considered the apology debate to be now closed this did not prevent the government from opening up a new line of criticism. Even as Indigenous peoples and their supporters continued to demand a national parliamentary apology the report on which that claim was based came under intense scrutiny and attack. Conservative commentators attacked *Bringing them home* as biased and unscientific.\(^\text{397}\) Aboriginal and Torres Strait Islander Affairs Minister Senator John Herron gave governmental imprimatur to those claims when he argued in a submission to the Senate Inquiry into the government’s response to the *Bringing them home* report that HREOC had grossly overestimated the number of children removed from their families. Herron made headlines with his argument that the Stolen Generation did not, in a literal sense, exist:

there was never a ‘generation’ of Stolen Children....The term ‘generation’ carries with it the impression of vast numbers....(the report is) based on considerably uncertain guesstimates and shoddy research, totally inappropriate to the weight of the argument which is based on the construction of the conclusion...at most, it might be inferred that up to ten per cent of children were separated for a variety of reasons, both protective and otherwise, some forcibly, some not. This does not constitute a

“generation” of “stolen” children. The phrase ‘stolen generation’ is rhetorical.398

Herron repeated the curiously conservative arguments (curious because they were made by a conservative) the Prime Minister had already made at the Reconciliation Convention and elsewhere:

the nature and intent of those events have been misrepresented and the treatment of separated children was essentially lawful and benign in intent and also reflected wider values applying to children of that era...emotional reaction to heart-wrenching stories is understandable, but it is impossible to evaluate by contemporary standards decisions that were taken in the past.399

This crass excursion into a highly sensitive debate drew a predictable response. Democrat Senator Aden Ridgeway accused Herron and Howard of ‘throwing an incendiary’ into race relations and ‘watching it go off, to see how much harm you can do.’400 Charles Perkins predicted burning cars and buildings, and violence at the Sydney Olympics Games.401 But the element of hypocrisy in the government line went largely un-noted. Howard, Herron and co had not refrained from making moral judgments about Australian history. They had already positively evaluated that history as story of struggle and

399 ibid.
401 ibid.
triumph. That they could not easily assimilate this saga to the awful facts of colonisation forced them to arbitrarily demarcate one aspect of Australian history as beyond the bounds of contemporary judgment. The only way to make these two stories cohere whilst retaining a positive orientation towards the past is to integrate the story of Indigenous/non-Indigenous relations into a progress narrative pointing towards the emergence of a democratic and just state, of successive policy initiatives as the movement from ignorance to enlightenment and an ever greater unity. This is the story told by many ‘progressive’ supporters of Indigenous rights. The 1967 referendum is the key moment in that narrative, the turning point from colonialism to a liberal democratic and just constitutional order.

Yet Labor’s difficulties in formulating a coherent response to the Bringing them home report demonstrate that a revisionist approach to Australian history is not without its difficulties either. The ALP demanded a complete and unqualified apology, and the establishment of a compensation tribunal as an alternative to litigation in the courts. Beazley moved to amend the motion to read that the House

unreservedly apologises to indigenous Australians for the injustice they have suffered, and for the hurt and trauma that many indigenous people continue to suffer as a consequence of that injustice; (and) calls for the establishment of appropriate processes to provide justice and restitution to members of the stolen generation through consultation, conciliation and negotiation rather than requiring indigenous Australians to engage in
adversarial litigation in which they are forced to relive the pain and trauma of their past suffering.\textsuperscript{402}

Although Labor could admit that history had created contemporary social problems, it seemed as though no one had created history- it could not admit that this reading of history necessarily cast a pall on the legitimacy of the settler state. In his second reading speech to the \textit{Council for Aboriginal Reconciliation Act} then ALP Senator (and later shadow minister for Aboriginal and Torres Strait Islander Affairs) Bob McMullan had said that reconciliation involved a revision of Australian history, and an acceptance that that history was 'in so many ways ... a sad history.' It included the dispossession, massacre and dispersal of Aboriginal people, as well as confinement in reserves, and the forcible removal of Indigenous children from their families: present disadvantage was a product of these historical events or 'injustices.' But guilt, or responsibility, was nowhere to be found: 'The objective is not to create guilt but to create an understanding of an important part of the history of Australia and the place of Aboriginal and Torres Strait Islander people in that history.'\textsuperscript{403}

McMullan’s formulation of the relationship between history, disadvantage and guilt is typical of that provided not only by successive leaders of the ALP but by most

\textsuperscript{402} Beazley, K, 26 August 1999, \textit{House Hansard}, p 9209

\textsuperscript{403} The Aboriginal Provisional Government disagreed: ‘white people complain about us making them feel guilty about the past... But they have every right to feel guilty. Had our lands not been invaded, how could their nation exist today?’; APG, ‘Equality Never was our Aim: We are a Status People Whose Rights Go Beyond Equality’ in Moores, I, \textit{op cit}, p310. Then ATSIC Chair Gatjii Djerrkura, by contrast, said that:
‘progressive’ individuals and organizations. HREOC had provided a similar formulation in relation to the _Bringing them home_ report. Shame, not guilt, was an appropriate contemporary response to the wrongs of the past. This solution to problems of inter-generational responsibility stands in a somewhat ambiguous relation to Paul Keating’s 1992 Redfern Speech. Keating performed an ‘act of recognition’ of past injustices and suffering both past and present when he accepted non-Indigenous responsibility for Australia’s past treatment of Indigenous peoples:

Recognition that it was we who did the dispossessing. We took the traditional lands and smashed the traditional way of life. We brought the diseases. The alcohol. We committed the murders... It was our ignorance and our prejudice.

The _Mabo_ decision was, as Keating put it, ‘a test of our self-knowledge. Of how well we know the land we live in. How well we know our history.’\(^{404}\) Recognising the wrongs of the past was not about contemporary guilt, not because guilt was not warranted, but because guilt was not ‘very useful.’ Keating’s use of the collective ‘we’, even when footnoted by his rejection of contemporary guilt, did seem to suggest that living Australians did bear an inter-generational responsibility for the injustices of the past. At least some Indigenous people understood Keating’s speech as an apology. Patrick Dodson, for example, described Keating as a friend of Indigenous peoples

\(^{s}\)sorry day is not about guilt. It is about understanding. For our people, saying sorry is simply a way of recognising another person’s suffering'; CAR, _Walking Together_, no 22, July 1998.

\(^{404}\) Keating, P, ‘Redfern Park, Speech’ in Grattan, M, _Essays on Australian Reconciliation_, pp 60-64.
who was not asked to apologise but did so at Redfern and in negotiation with Indigenous leaders ensured that his Government moved to protect native title rather than extinguish it. He was prepared to face the national legacy of the stolen generations through the human rights inquiry.  

The ambiguities of Keating’s 1992 Redfern speech aside, it seems that the ALP adopted a revisionist reading of Australian history for instrumental reasons, in the belief that an awareness of the past might make finding remedies for contemporary social problems easier. It did not accept the revisionist reading of Australian history because it accepted the broader agenda of Indigenous sovereignty. Quite the opposite. It seemed that the legitimacy of the Commonwealth could be enhanced rather than impinged upon by an acceptance of the past, in the sense that the nation might become a more just place in the process. But the ALP continues to struggle to reconcile its acknowledgment of past ownership and unjust treatment with its commitment to the legitimacy and unity of Australia. In the late eighties, and again in the late nineties, that contradiction would be manifest in the Coalition’s accusation that the ALP had based Indigenous affairs policy on historical guilt, and that its commitment to the unity of Australia was weak.

405 Dodson, P, *Telstra Address Address to the National Press Club*, November 28 1997

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As noted at the beginning of this chapter, the most prominent image of latter reconciliation discourses was the image of ‘healing.’ There was always a degree of ambiguity, however, as to who or what was to be healed. Commissioner Johnston’s *Final Report* and Tickner’s discussion paper focused reconciliation on the improvement of relationships between Indigenous and non-Indigenous peoples. In that sense, it was the relationship that needed to be mended or put right. At other times it was individual Indigenous persons who bore the scars of the past, or were traumatised. Or Indigenous peoples generally were said to be in need of healing. Kevin Gilbert, for example, felt that Aboriginal peoples ‘underwent a rape of the soul so profound that the blight continues in the minds of most blacks today. It is this psychological blight, more than anything else, that causes the conditions that we see on reserves and missions. And it is repeated down the generations.’

Perhaps this made sense, literally. One could readily imagine that a particular Indigenous person might be physically or mentally injured, and how that injury might be manifest as a ‘dysfunctional’ relationship. But something else was at work when healing discourses

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406 Gilbert, K, ‘Voice of Kevin Gilbert’ in Moores, 1, *op cit*, p45. Kevin Gilbert was talking the language of healing as early as 1973: ‘we must have Black Israels; places where Aboriginal patriots can help to heal their crippled race as well as themselves. Places where clean, black people with firm values will be able to set up alcoholic aid centres, hospitals and rehabilitation projects. Where blacks will help their brothers rediscover the secret, hidden joys of the spirit known to their ancestors, free of all accretions of dogma.’
were applied to the nation. Lisa Hill, in a 1998 article in the *Journal Of Australian Studies*, wrote that

Keating ... understood that the national psyche needed to excavate, to probe and come to terms with the sad memories of its childhood. This painful but quite necessary task has been met with vigorous resistance by our current leaders who are behaving a bit like bewildered parents challenged by the reproaches and revelations visited upon them by their adult children. The repressed memories of our past are out once and for all; they cannot and should not be stuffed back into the recesses of our common psyche....An honest recognition of our status as invaders will enable us to get off the analyst’s couch once and for all.\(^{407}\)

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\(^{407}\) Hill, L, 'Pauline Hanson, Free Speech and Reconciliation', *Journal of Australian Studies* vol 57, no1, 1998, p15. Hill considers that Pauline Hanson was the 'catalyst of a regression to counterproductive anger and denial' rather that the agent by which 'latent Australian racism' was brought 'to the surface'; p15. On Howard, Hill writes: 'When we compare his sentiments to those expressed by the former Prime Minister Paul Keating at the celebrated Redfern Address we are put in mind of an analysand who, after years of torturous analysis, finally effects a profound psychological breakthrough only to renounce it all in the following session';p14. Marcia Langton adopted similar language when she argued that the history of denial that also marked the debate on the Stolen Generations pointed to a 'national psychosis'; in *Stolen Generations*, Written and Directed by Charlene Johnson, 2000. Pile and Keith also offer a Freudian reading of 'resistance': 'a patients refusal to move to a point which will enable healing to occur. Resistance, in this context, is a form of defence against the anxiety which might be produced by recognising some repressed 'truth' or confronting the repressed emotional traces of past trauma. It is also resistance against that knowledge which might badly shake or force an acknowledgement of the existing order of things.' Pile, S and Keith , M (eds) *Geographies of Resistance*, p208.
Soul and psyche often overlapped in the effort to place the nation somewhere on a chronological life-map, whereby reconciliation became the path to ‘maturity.’ Mick Dodson, for example, considered that reconciliation was not about health, education or housing (these are entitlements of citizenship): ‘reconciliation is about far deeper things—to do with nation, soul and spirit.’ Sir William Deane said in his Lingiari Lecture that ‘where there is no room for national pride or national shame about the past, there can be no national soul.’ Evelyn Scott made the point, at her first press conference, that reconciliation was essential if Australia was to go into the twenty-first century as a ‘mature, harmonious society, at peace with itself and the world.’ George Winterton, Professor of Law at the University of New South Wales, similarly opined, ‘Australia’s soul will never be at rest until reconciliation is achieved with her indigenous people.’ Natasha Stott Despoja considered that reconciliation was ‘vital to the healing of Australia’s spirit and to our maturity as a nation.’ Norman Habel viewed the Australian reconciliation process as a ‘search for Australia’s collective soul’:

The Australian soul or spirit is not a European soul in the process of being acclimatised to a harsh new environment. The Australian soul emerges

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409 Winteron, G, cited in CAR, Proceedings of the Australian Reconciliation Convention, Book One, p47.
from our land, our collective history, our people. And that heritage embraces both indigenous and non-indigenous Australians.411

*Improving Relationships*, the CAR’s second key issue paper, linked reconciliation to the need for non-Indigenous people to heal; ‘In the process of reconciliation it is important...that non-indigenous Australia recognizes that it has been spiritually diminished as a result of its treatment of indigenous peoples.’412 Sol Bellear and Linda Burney characterised the problem of race relations in Australia as, in part, one of identity. For Burney the problem is one of Indigenous exclusion from the national identity- non-Indigenous Australians will struggle to know themselves until they reconcile with Indigenous peoples and include them in ‘the nation.’413 Bellear framed the issue somewhat differently: ‘When the great majority of Australians know who and what they are, they will finally be in an authentic position to deal with those of us who know what and where we are.’414 Noel Pearson spoke of a ‘troubling inheritance’- an attitude of racial superiority - that ‘still infects our national psyche.’ This was the baggage that ‘all those who have loved you and whom you loved have given you. It is a troubling inheritance

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411 Habel, N, *op cit*, p86. Malcolm Fraser similarly argued that ‘true reconciliation does not involve merely material things- it also involves matters of the spirit.’; ‘Reconciliation Means Facing Up to the Truth About our History’, *Sydney Morning Herald*, April 8, 1999, p15.
413 ‘The real reason why there has always been such a search for identity amongst white Australians is that the Aboriginal element of Australian identity has always been left out’; Burney, L, ‘Introduction’ in Moores, I, *op cit*, p8.
because to deny it is to deny something of yourself.\textsuperscript{415} Lois O'Donoghue argued that the release of \textit{Bringing them home} 'represents a very real chance for this nation to collectively deal with one of its most traumatic episodes and to provide justice for those who continue to suffer the terrible pain caused by such genocidal practices.'\textsuperscript{416}

Images of sin as disease, and of priests as physicians of souls, are ancient parts of Christian culture.\textsuperscript{417} The link between sin and disease, and in the role of faith in curing both, is as old as the Gospels themselves. The story of Jesus curing the sick and the blind is a familiar one.\textsuperscript{418} The penitential literature is also replete with such references. Viraldus, in his \textit{Compendium Theologiae}, wrote:

Heartfelt contrition is the most efficacious, heavenly medicine that alone causes the vomiting out of the bilious humours from the stomach of the ailing soul. It is the sweetest bath by which the physicians of our souls beneficially cures the unwholesome of the human heart.\textsuperscript{419}

\textsuperscript{417} Tentler, T, \textit{op cit}, p157.
\textsuperscript{418} The roles of priest and physician were one and the same, or were performed by the same person or class of persons, until medical schools became secular institutions in the late middle ages; Wallace, E, ‘Psychiatry and Religion: Towards a Dialogue and Public Philosophy ’ in Smith, J (ed) \textit{Psychoanalysis and Religion}, p196.
\textsuperscript{419} Viraldus, J.L, ‘Compendium theologice’, cited in Tentler, T, \textit{op cit}, p257. Also Fourth Lateran Council, 1215, instructs priests to ‘be prudent and wise, know how to pour wine and oil on the wounds, to discern the circumstances of the sin and the state of mind of the sinner, in order to be able to determine what advice to give, what remedy to apply, and what means to adopt to heal the sick person’; cited in Thurian, M, \textit{op
The relation between religious institutions and psycho-therapy is one part of the historical link between religious practice and images of disease and healing. In the mid to late nineteenth century, for example, religious organisations in America, including Christian Scientists, Seventh Day Adventists and Quakers, experimented with psycho-therapy and ‘moral treatment.’ The product of that movement was a number of moral-psychological treatments, which Wallace describes as ‘secular-religio-moral psychotherapeutic syncretisms’, of which Alcoholics Anonymous is the most famous example. There are also continuing conceptual links between the language of Christian theology and contemporary psychoanalytic models of the self, particularly in regard to the image of healing. Freud noted these links in relation to his own practice and the Christian pastorate. He considered the Catholic confession and the Protestant cure of souls to be the forerunners of psychoanalysis, and he termed the analyst a ‘secular pastoral worker.’ He also considered that the great religions of the world included symbolic or totemic representations of individual pathologies. The Christian doctrine of original sin, for example, was seen by Freud to be a recognition of an historical reality, reconstructed by him as the murder of the primal father. But for Freud religion obscured, rather than

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*See, for example, Fleischman, P, The Healing Spirit: Explorations in Religion and Psychotherapy.*

*Wallace, E, op cit, p196.*
revealed, deeper psychological truth. In an Enlightenment moment, he described religion as a sign of cultural immaturity.  

Some scholars have found a rather different Freud. Hermeneuticists such as Paul Ricouer, for example, have emphasised the interpretive dimensions of psychoanalysis. The clinical enterprise is seen as an interpretive process centring on the patients narrative as a means of understanding motivation and desire. Alternatively, psychoanalysis has been seen as a hermeneutic through which to arrive at an understanding of the past by which the analysand can live in the present. On this view, psychoanalysis is not to be viewed as a science whose results are capable of empirical verification, but is itself not so different in kind to some interpretive religious practices. Indeed, the practice and language of confession, developed first in the Catholic church and then as taken up by romantics and in modern psychiatry, has been a pre-condition for the modern sense of guilt and

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423 Vergote, A, 'Confrontation With Reality in Theory and Practice' in Smith, J (ed), Psychoanalysis and Religion, pp 75, 83. Angus Nicholls writes: 'religion, says Freud, is a kind of mass delusion created by humans as a metaphysical consolation or “palliative remedy” for the hardships of life...Freud’s aim was to cure humanity of its erroneous belief in numinous or supernatural notions like fate and destiny...'; Nicholls, A, 'The Secularization of Revelation from Plato to Freud' Contretemps, 1, September 2000, pp62-70 at 68. Freud: 'let me add that I am in no way in awe of the Almighty. If we ever meet one another, it is rather I who should reproach Him, than He me', 1915, cited in Isbister J, Freud: An Introduction to his Life and Work, p208.


425 As Michael Roth describes it, psychoanalysis is ‘a hermeneutic according to which we construct a reading of the meaning and direction of our pasts through which we can live, or with which we can change our lives'; Psychoanalysis as History: Negation and Freedom in Freud, p9.

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individual responsibility, and ultimately, a significant element in the development of the modern sense of self.

Suzanne Kirscher also rejects the conventional view that the psychoanalytic conception of the self represents a major break with the Judaeo-Christian spiritual heritage. Instead, she draws a link between the narrative structures with which some forms of psychoanalysis and Christianity chart human development. She identifies romanticism, particularly nineteenth century German and English romanticism, as a key transitional moment in the movement of the narrative structure from a theological or mystical idiom to the more familiar secular psychological discourse. The original Christian narrative was finite and linear. Creation was followed by the Fall, which was in turn to be followed, at the end of time, by the Final Judgment. It was 'right-angled', in that it envisaged a sharp turn into salvation and an apocalyptic climax. The present is marred by sin, and the best of things is yet to come. The Bible is taken to have a literal meaning

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426 Brooks argues that psychoanalysis 'offers a secular version of religious confession: it insists on the work of patient and analyst-comparable to confessant and confessor-toward the discovery of the most hidden truths about self-hood.' Brooks, P, Troubling Confessions, p9.

427 Foucault suggested in 1980 that the relationship between Freudian practice and Christian spiritual techniques would be an interesting field of research; Foucault, M, 'About the Beginnings of the Hermeneutics of the Self' in Carrette, J, op cit, p 177. Although perhaps not completely in the vein that Foucault would have imagined, Susan Kirscher's work The Religious and Romantic Origins of Psychoanalysis does explore those links. Kirscher describes Foucault as illuminating but limited by his inability to grasp the theodicy of psychoanalysis; Kirscher, S, op cit, p20. That is, its importance as a means of 'making sense of the human condition.' The comment leads one to suspect that the major gulf between the two authors might be Foucault's rejection of humanism and consequently, perhaps, of any definitive understanding of a 'human condition'; See, for example, 'Who are You, Professor Foucault? Interview with P. Caruso' in Carrette, J, (ed) Religion and Culture by Michael Foucault, p 99-101.
for the whole of humanity, but it is also interpreted individually, in parallel to the main
narrative, as the story of the individual's passage to God. The absorption of neo-platonic
philosophy into Christian theology imparted a new meaning and shape to this traditional
narrative. The neo-platonic emphasis on the One, the move outward from unity and the
disciplined struggle to return to a state of wholeness are all significant. The Christian Fall
is reinterpreted as the movement out of an undifferentiated unity into a world
characterised by multiplicity and division. The Fall is further associated with separation,
self-hood and (false) self-consciousness. In its alienated state, the soul experiences a
longing to return to the source, to a union with God.429

Eschatology becomes not just redemptive, but unifying and uplifting. The narrative takes
on a spiral structure, imported from neo-platonism, such that the end is taken to be higher
than the beginning because time witnesses the unfolding of God's purposes. Evil is taken
to have a constructive or positive purpose in that it is thought to be created by God so that
He may overcome it.430 The narrative structure was secularised in the nineteenth century
by English and German romantics for whom the primary alienation was the separation of
humanity from nature.431 In the romantic version of the narrative salvation is interiorised
whilst God is eliminated or relegated to an unimportant position. A key element in the
romantic narrative was the experience of profound disillusionment and despair, which
represents a turning point in a process of self over-coming that leads to transcendence.

428 On German romantic nationalism see Kamenka, E, 'Political Nationalism', in Kamenka, E (ed)
Nationalism, pp10-11.
430 Kirscher, S, op cit, pp 117-123, 144-5.
431 ibid, pp 4, 161-171.
The romantics also sketched a parallel narrative in which humanity was collectively alienated from nature, and struggled to return to a state of unity. Again, the narrative had a spiral structure, such that both individually and collectively, the unity to be attained was to be higher than that originally experienced.

Kirscher identifies Margaret S. Maher (1897-1985) as one psychologist whose work embodies a similar narrative structure. Maher’s psychology was based on four relevant principles:

1. The developmental spiral, including a return to oneness or connectedness at a higher level to that originally experienced as a child.

2. The development of the self out of the baby’s sense of undifferentiated unity.

3. A period of rupture and disillusionment, hinging on the self’s recognition of separateness and limitation.

4. The constructive role of individuation, separation and conflict in the development towards maturity.⁴³²

⁴³² Kirschner, S, op cit, p77.
There is a persistence in goals as well as structure here. Psychoanalysis and earlier Christian and romantic narratives share the same relation between unity and separateness, wherein an ideal state is conceived of as being an intimate union which preserves the sense of self achieved through development. Individuation and union are both prized, and the capacity to form relationships without the loss of the sense of self is taken to be characteristic of maturity and ‘health.’

There is also an appreciation of the value of verbal expression, which is taken to characterise a higher form of personal development, where speech substitutes for action. Hence the value of personal expression, of recalling and verbalising experience and feeling. Speech, which becomes the means to know, or to ‘find’, one self, is in this way connected to identity. The higher forms of development are therefore characterised not just by individuation and intimacy with others, but also by authenticity. The balance between self-direction, self-reliance and intimacy structures an ideal template of the self.

But alongside the value placed upon autonomy is the belief that too much independence is always (by definition) too much: it represents an inability to engage intimately with the whole. A peculiar twist to the psychoanalytic confessional is the aspect of difficulty and superficiality associated with authentic and largely irrelevant admissions respectively. The psychoanalyst is suspicious of that which is easily admitted: neuroses are blockages that prevent confession, which must be worked through, with some degree of pain and difficulty, before the deeper, underlying truth may be confessed. Psychoanalysis is

\[\text{\textsuperscript{433} ibid, pp 5, 44,}\]

\[\text{\textsuperscript{434} ibid, pp 49, 53, 59,}\]
directed towards the resistance to confession: ‘Truth is to be sought in those places that have been marked by censorship.’

The language of the Australian reconciliation process is replete with references to unity, maturity and authenticity. Pluralist interpretations of reconciliation bear a particularly close resemblance to the narrative structure highlighted by Kirscher; there is the idealised end-point of a nation characterised by both unity and diversity, where a more authentic Australia comes to know itself through the recovery of the Indigenous experience. A period of conflict between Indigenous and non-Indigenous peoples is experienced as a constructive discord which gives way to, and makes possible, a unified and harmonious nation. The constituent groups of the nation come to form more intimate relationships, and they explore their identity through narrative— the telling of stories. The nation is whole, and the relationships between its parts are just. There is, similarly, a fear of too much autonomy; the recognition of Indigenous sovereignty or of indigeneity as a source of rights is taken to be dangerously divisive. On the other hand, non-Indigenous Australia is characterised as being without a sense of identity to the extent that it does not engage with Indigenous peoples.


436 For example, Deane argued in his Lingiari Lecture that ‘until true reconciliation with its indigenous peoples is reached, Australia is a diminished nation.’ See also Bellear, S, in *CAR, The Position of Indigenous Peoples in National Constitutions: Speeches from the Conference*, pp78-80. Rev. Dorothy McRae-McMahon, former National Director for Mission of the Uniting Church in Australia provided one formulation of an authentically reconciled Australia: ‘we will only know who we are, and build on a firm foundation, when we have grieved our past and made a peace with Aboriginal people. When we do this the celebration of life here can authentically begin.’ *www.austlii.edu.au/au/orgs/car/faith/6.html*, accessed August 1999.
Minnow notes the ‘striking prevalence’ of therapeutic language in responses to incidents of mass violence, but asks, ‘what if any sense is there in drawing analogies between the psychological needs and therapeutic responses appropriate to individuals, and issues involving entire groups of people, and even societies?’ 437 There is no necessary ‘sense’ involved in extrapolating from the individual to the group, only a history of talking about the personal and the nation which informs our current understanding of what it means to ‘heal’ a collective. The movement from the personal to the national is made possible by the use of an analogy with a long history in Western political thought; the image of the nation or political community as organic or bodily. Jonathon Gill Harris has examined the image of a political community as a ‘body politic’ in early modern England. The bodily image of the polity focused attention on internal balance, hierarchy, and on boundaries as sites of potential corruption. The fear of infiltration strategically mystified sources of internal conflict. In early modern protestant England, the polluting foreigners were identified as Jews and Catholics.438 Certain ‘lingering fossils’ of contemporary political language, such as the phrases ‘head of state’ and ‘members of parliament’, date from this period. Harris nevertheless considers the image of the body politic to be largely spent. He points out that the currency of the image was rooted in its relation to widely held scientific models of the human body, and that the image lost currency when the

437 Minnow, M, Between Vengeance and Forgiveness, p22.
438 Harris, J, Foreign Bodies and The Body Politic, pp 46. See also Hale, D, The Body Politic: A Political Metaphor in Renaissance English Literature, pp 7-8. Hale notes that there was, in medieval Europe, a notion that the universe, the world, the church, the state and the individual repeated the same pattern or arrangement and exhibited precise correspondences. Hale dates this image to ancient Greek philosophy, eg Plato; pp 18, 47.
medical images on which it was built lost credibility in the face of a new medicine which did not conceive of the body as a template of cosmic or political order.\footnote{Harris, J, \textit{op cit}, p15-23, 141. Harris also notes the emergence of the ‘pathological’ in Western juridico-political discourse from the 19th century, and relates these developments to twentieth century functionalist social pathology; Comte, Spencer, Malinowski and Parsons were all social scientists who adopted biological models of society; p4. Also Hale, D, \textit{op cit}, p109. Rousseau thought that ‘the body politic, taken individually, can be considered as an organized, living body and similar to that of a man...the body politic is therefore, also a moral being which has a will, and this general will, which always tends toward the conservation and welfare of the whole and of each part, and which is the source of the laws, is, for all the members of the state, in their relations to one another and to the state, the rule of what is just and unjust’ R, \textit{J.J. Rousseau’s Political Writings}, Ritter, A and Bondanella, J (eds) New York, WW Norton, 1988, p61, cited in Degiser, P, \textit{Political Forgiveness}, p149. Hegel also thought that collective subjects possessed a collective consciousness, albeit one that was attained through the individual consciousness of members of the collective; a nation attains self-consciousness (ie becomes a subject) when its members come to identify with its institutions and practices and regard its national principle as expressive of their own self-understanding; Hardiman, M.O, \textit{Hegel’s Social Philosophy}, p50. \footnote{Laura Otis takes up those links in her recent work, \textit{Organic Memory: History and Body in the Late 19th and Early 20th Centuries}. Otis describes the period from 1870-1918 as the age of ‘organic memory.’ Organic memory theorists drew the link between ontogeny, or individual development, and phylogeny, or the ancestral development of races and species. The principle linking these elements together in an evolutionary schema was memory. The notion that history and development could be examined individually and culturally had been already been thriving for some time in romantic philology. But the organic memory hypothesis did not gain a wider currency until it was formulated as a scientific principle in the latter decades of the nineteenth century. Some of the premises of organic memory theory were taken up}}

The image of the polity as a place of sickness or health has not been forgotten, but rather, has been transformed into a psychological idiom. Kirscher draws the genealogical link between Christian and contemporary psychoanalytic models of the self and of personal development. But those images of personal development are reified along a third dimension, outward onto the image of the polity, particularly the \textit{national} polity, as a site of psychic drama.\footnote{Laura Otis takes up those links in her recent work, \textit{Organic Memory: History and Body in the Late 19th and Early 20th Centuries}. Otis describes the period from 1870-1918 as the age of ‘organic memory.’ Organic memory theorists drew the link between ontogeny, or individual development, and phylogeny, or the ancestral development of races and species. The principle linking these elements together in an evolutionary schema was memory. The notion that history and development could be examined individually and culturally had been already been thriving for some time in romantic philology. But the organic memory hypothesis did not gain a wider currency until it was formulated as a scientific principle in the latter decades of the nineteenth century. Some of the premises of organic memory theory were taken up}} Freud drew an analogy between the individual and the cultures of
which they were a part. In *Civilisation and its Discontents* (1930), for example, he suggested that a culture was a subject fit for analysis, and like the individual, was a potential site of neurosis and pathology:

If the development of civilisation has such far-reaching similarity to the development of the individual, and if it employs the same methods, may we not be justified in reaching the diagnosis that, under the influence of cultural urges, some civilisations, or some epochs of civilisations-possibly the whole of mankind- have become ‘neurotic’?

In *Totem and Taboo* (1913) Freud had suggested that there existed a ‘collective mind’:

I have taken as the basis of my whole position the existence of a collective mind, in which mental processes occur, just as they do in the individual. In particular, I have supposed that the sense of guilt for an action that has persisted for many thousands of years and has remained operative in generations which can have had no knowledge of that action.

Freud was referring here to the murder of the primal father by the horde, and the guilt that followed.\(^{441}\) He did not suggest, however, that this kind of cultural ‘passing on’ was the

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and given renewed currency in the twentieth century by Freud and later psychoanalysts. Otis, L, *Organic Memory: History and the Body in the Late Nineteenth and the Early Twentieth Centuries.*

\(^{441}\) See also Frosh, S, *The Politics of Psychoanalysis: An Introduction to Freudian and Post-Freudian Theory*, pp42-43.
same as physical heredity, merely that the two operated in parallel. For Freud the relationship between personal neuroses and collective or public religion was not that of an identity but that of an analogy. It was not easy, said Freud, ‘to carry over the concepts of individual psychology into group psychology’:

I do not think we gain anything by introducing the concept of a ‘collective’ unconscious. The content of the unconscious, indeed, is in any case a collective, universal property of mankind. For the moment, then, we will make shift with the use of analogies.

Carl Jung (1875-1961) pushed the analogy to an identity. Jung argued that Freud’s ‘exclusive concern with the instincts fails to satisfy the deeper spiritual needs of the patient.’ Freud and his associates were too much bound by the premises of nineteenth century science, too matter of fact, and they give too little value to fictional and imaginative processes. In a word, they do not give enough meaning to life. And it is only meaning that liberates.

Jung argued that cultural groups possessed a collective consciousness. Cultural memory was preserved in myth, art and religion. The structure of that consciousness or memory

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was common to each individual consciousness, such that Jung could write, the ‘whole spiritual heritage of mankind’ was ‘born anew in the brain structure of every individual.’ Rather than existing in parallel, the individual and the collective consciousness interacted dynamically. The individual unconscious was engaged in the ceaseless task of grouping and regrouping images, but that activity was carried on in relation to pre-existing images or archetypes which were common to all members of the collective. The dream and the myth were analogous between the individual and the collective: ‘Dream is the personalised myth, myth the depersonalised dream; both myth and dream are symbolic in the same general way of the dynamics of the psyche.’

Like Freud, Jung saw a link between his own practice of psychoanalysis and the Catholic confessional. The sacrament of reconciliation had ‘served since olden times to gather the lower, instinctual forces of the psyche into symbols and in this way integrate them into the hierarchy of the spirit.’

These images of health, sickness, identity and authenticity, extrapolated from the individual to the nation via romantic understandings of the nation and later, from psychological models of the self and of the collective conscious, share a twofold and common Christian root; the image of sin as disease, and the technologies of the self developed as confessional, penitential rituals. As Andrew Lattas put it, Christian and psychoanalytic confessional techniques, developed for the problematisation of personal identity ‘have come to be projected onto the wider spatio-temporal domain of the nation’:

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445 Vergote argued that Jung attempted to restore the religious ground to psychological data; op cit, p75.

See also Roth on Freud and the analog between dream and myth, op cit, p141.

446 Psychology and religion, p352.
Australian nationalism is realised through the expanded application of techniques of 'caring for the self', only now applied to the personhood of the nation... Political discourses have become a means for realising the mythical personhood of the nation through discourses that question and fix the psychological traits, unity and character of the nation. 

Australian spiritual 'alienation', or the national 'identity crisis', is a discursive construction 'used continually to authorise discourses which are concerned with giving us a sense of national self.' Lattas attributes to Foucault and Derrida the insight, developed by him in relation to Australian nationalism, that the search for truth separates us from ourselves, and opens a space for other discourses which claim the right to speak the truth of us.

Whilst images of physical disorder or injury no longer feature prominently in Australian political discourse, the image of the nation as a psyche with a troubled or troubling identity has proven to be one of the most common and potent of the nineties. This imagery positioned the task of narrative reconstruction, of dealing with trauma or of

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447 Lattas, A, 'Aborigines and Contemporary Australian Nationalism: Primordiality and the Cultural Politics of Others' in Cowlinshaw, G and Morris, B, Race Matters, p233. Or, as Norman Habel put it, 'the spiritual process of repentance, confession and reconciliation found in the Christian tradition has been extended into the national spotlight. A traditionally Christian process has been moved from the private confessional into the public domain'; Habel, N, op cit, p125

448 ibid, p233.

449 ibid, p248. Brooks also links the practice and language of confession to the image of the self which contains inner 'depths' and 'recesses', and notes that 'the very notion of inwardness is consubstantial with the requirement to explore and examine it'; Brooks, P, op cit, p111.
coming to terms with the past lest it haunt us forever, as somehow outside of or perhaps as foundational to politics, rather than as something within or as the product of politics. Nothing could be more disarming than the promise of release. But it remains to ask, where did this imagery come from? In what ways was the image of healing already given to us in the language brought to bear on the relationship between Indigenous and non-Indigenous peoples in Australia? And in what ways was the project of reconciliation shaped by other assumptions about political identity, agency and representation given to it in already established ways of talking about the nation?

The language of trauma, for example, has been used in relation not just to individual members of the Stolen Generations but in relation to the nation. Trauma derives from the Greek word for ‘wound.’ It originally related only to the physical, but was imported into psychology in the late nineteenth century to refer to a wound inflicted on the mind. As Caruth describes it, that wound is one that is ‘experienced too soon, too unexpectedly to be fully known and is therefore not available to consciousness until it imposes itself again, repeatedly, in the nightmares and repetitive actions of the survivors.’\(^{450}\) In other words, trauma is ‘a break in the mind’s experience of time.’\(^{451}\) The life of the traumatised


\(^{451}\) Caruth, C, *op cit*, p61. Note Petersen’s observation that the ‘forgiveness studies’ movement grew out of the North American medical and health care-fields: ‘Work among health professionals over the past quarter century has drawn increasing attention to forgiveness as a powerful psycho-therapeutic tool. This recognition has often come with respect to trauma studies...Particular studies in interpersonal relations, marriage and the family, and private and social behaviour are pointing to the deep connection between
person becomes the determination to complete the experience of time, and to that end, the traumatised person compulsively relives the traumatic event. That the traumatic event returns to haunt the survivor suggests that the trauma is not just the original incident, but the experience of repeatedly returning to that event.452

The concept of trauma, understood as a break in the nation’s experience of time and as an endless return to the site of danger or injury, links healing imagery to the larger debates on Australian public history. 453 Australian history has been understood as a public narrative to be recalled and worked upon. History does not simply exist as the record of what happened when to whom, or of who did what and why. Rather, history is seen as a particular method or practice of relating to the past, of being in the past because the past is in us. We are to do this work of dealing with a traumatic episode by first acknowledging and then accounting for the violence of the past lest it return to haunt us, traumatically, forever. Shriver, for example, figured the analogy between personal and national trauma in the following way:

personal psychological health, social bonding, and healthy civic life and forgiveness'; Petersen, R, op cit, p9

452 The story of trauma tells not of an escape from an accident but to its endless impact on life; Caruth, C, op cit, p7.


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Traumatic pain and guilt plant a time-bomb in the depths of the human psyche and in political history. The Balkans, the Ukraine, South Africa, Guatemala, Germany and the United States all have some untended, politically enacted sins to attend to. Until persons, institutions, citizens and leaders do something about their negative pasts, their present and future relations are likely to be corrupted by undercurrents of abiding hostility...

'forgive and forget' was always a misleading motto. 'Remember and repent' and 'remember and forgive' are better formulas for the restoration of political health. 454

Then Anglican Archbishop of Brisbane and now Governor-General Peter Hollingworth used a religious idiom to make a similar point when he wrote that the 'unfinished business of reconciliation is to deal with the past pain':

these matters must finally be put to rest through the process of forgiveness, reconciliation and healing, and only then can we move on as a people sharing a common unity under God...I believe there needs to be a formal document much like a solemn covenant between our peoples in which we seek forgiveness, ask for reconciliation. 455

Such a way of thinking about the past and of our relation to history has a certain appeal. It suggests that the discord that marks Indigenous affairs might give way, if only we have the will to work at it, to a more peaceful and harmonious future. But politics gets lost in such a formulation. Contemporary debates are conceived of as pathological evidence or symptoms of the failure of the Australian nation to come to terms with its origins or to ‘put the past to rest.’ Conflicts which might be thought of as endemic to a polity built upon the appropriation of the lands and jurisdiction of Indigenous people are in need of ‘resolution’ in the same sense that we talk about a patient having a ‘breakthrough’ or ‘resolution’ of some psychological ‘issue.’ The sovereignty debate, for example, figures as a traumatic episode whose point of origin is the doctrine of terra nullius, rather than as a struggle for control over the lives and lands of Indigenous peoples.

But no final ‘resolution’ or ‘breakthrough’ seems possible. These psycho-social enactments of an imagined national self constitute a political imaginary whose horizons have the character not just of vision but also of depth, of the seen and the unseen. A latent and always unacknowledged past threatens forever to return and disrupt the routine work of political institutions. This unseen dimension remains as an unassimilable source of future traumas, rendering the politics of healing determined as incomplete from the outset. Brooks notes that the confessional scene is itself productive of a potential endless or infinite guilt. Confessional techniques which promised reconciliation with God were not only salvational but were themselves part of a complex of discipline and consolation.

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[Brooks, P, op cit, p2.]

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productive of the very guilt for which forgiveness was promised. 457 When projected outwards onto an imagined national self these confessional ‘technologies’ are similarly productive of a potentially endless confession or recollection. There is always something more to be said. That each generation of Indigenous and non-Indigenous peoples must negotiate the justice or otherwise of their relationship anew does not sit well with a psycho-therapeutic model that promises but cannot deliver release, resolution and harmony. To talk of trauma in the hope of healing suggests a false promise and may solicit only further frustration. The mundane political necessity of processes of reconciliation, compromise and accommodation cannot be denied. As Derrida put it, the task of making the polity work remains, and must be taken seriously. But it would be a mistake to think that the Aboriginal reconciliation process could itself provide the nation with any kind of final ‘closure.’ 458

Apology and Forgiveness as Political Transformation

Whilst the public debate on the Stolen Generations centred on whether or not there should be a formal national apology to those affected by government child removal policies, there is also, in the text of the Declaration Towards Reconciliation, a related but

457 Tentler, T, op cit, pp xii, xxvii.
458 Derrida: ‘I believe it necessary to distinguish between forgiveness and this process of reconciliation, this reconstitution of a health or a ‘normality’, as necessary and desirable as it would appear through amnesties. The ‘work of mourning’, etc. A ‘finalised’ forgiveness is not forgiveness: it is only a political strategy or a psycho-therapeutic economy.’ On Forgiveness, p50.
less discussed problem; the ethics of forgiveness. The Declaration links history, apology, healing and forgiveness together in a schema derived from Christian penitential technologies. It reads, in part:

As we walk the journey of healing, one part of the nation apologises and expresses its sorrow and sincere regret for the injustices of the past, so the other part accepts the apologies and forgives.

The Declaration expresses a symbiotic relationship between apology and forgiveness, notwithstanding the repeated assertions by non-Indigenous leaders that reconciliation was 'not about guilt.' In theological terms, apology and forgiveness are two parts of a whole. Forgiveness meets apology in the movement of wrong-doer and victim towards reconciliation.\(^{459}\) The Christian technology of reconciliation, particularly in its Thomist, Catholic formulation, provides a schema by which this kind of humbling self-recognition solicits from the wronged party forgiveness and absolution, effecting between the parties a new beginning, a transformation of themselves and of the relationship between them. The aim of the final part of this chapter is to follow the way in which this transformative logic of apology and forgiveness was applied to the relationship between Indigenous and non-Indigenous peoples in Australia.

\(^{459}\) But note Habel, N, 'those of us who dare to make an apology ought not assume that the victims are obligated to forgive'; *op cit*, p 129.
Howard, Hawke, Beazley and Wilson all claimed that the reconciliation process, and particularly the apology debate, was not or should not be about contemporary guilt.\textsuperscript{460} In their varying formulations of Australian history and of contemporary moral responsibility for the injustices of past Australian governments, each pointed to the suitability of expressing personal, public sympathy for the suffering of Indigenous people. As Sir Ronald Wilson said of the \textit{Bringing them home} report, 'we have never mentioned as part of our inquiry, guilt. We have emphasised listening and understanding and responding by saying sorry, followed by a commitment to reparation.'\textsuperscript{461} HREOC later argued that there had been a general 'failure ... to distinguish between the ideas of collective guilt and historical shame':

Because guilt for wrongs done is always a matter of individual responsibility, any idea of collective guilt genuinely makes no sense. An individual cannot be charged with the crimes of others. He or she cannot experience remorse on someone else's behalf. ...Talk of sharing in a collective guilt over the dispossession of the Aborigines is one thing; however, talk of sharing in a legacy of historical shame is altogether another.\textsuperscript{462}

\textsuperscript{460} See, for example, Hawke, R, 23 August 1988, \textit{House Hansard}, p137.


\textsuperscript{462} Frequently asked questions about the National Inquiry,
John Howard, so often criticised for his refusal to offer a parliamentary apology, offered a statement of personal regret at the 1997 Australian Reconciliation Convention which was not so different in kind to the type of parliamentary ‘sorry’ many non-Indigenous people sought. Howard was at one with the many people who argued that an expression of empathy or compassion was the appropriate response to the Stolen Generations. Malcolm Fraser, for example, argued that the apology debate was not about contemporary guilt. Raimond Gaita likewise argued in his book, *A Common Humanity*, that a sense of national shame, rather than national guilt, was an appropriate response to the release of the *Bringing them home* report.\(^{463}\)

Why then, despite frequent denials of contemporary guilt (and of the relevance of contemporary guilt) did the Australian reconciliation process return repeatedly to this subject of apologising for the injustices of not just the recent but also the distant past? Why were forgiveness and atonement at issue if there was in fact no guilt to be accounted for, no moral stain to be washed away? Two answers seem reasonable. First, that the question of guilt and of contemporary responsibility for the consequences of past injustices was not completely absent from but was at work, explicitly, in some corners of the debate. In August 1991, for example, Archie Roach and Ruby Hunter held a press conference at which they called for a national inquiry into the practice of child removal:

> this issue is a ‘black spot’ in the history of Australia. The damage and trauma these policies caused are felt everyday by Aboriginal people. They

internalise their grief, guilt and confusion, inflicting further pain on themselves and others around them.

The pair called on the government to pay compensation to removed children and their parents and to admit its ‘guilt’ and ‘responsibility.’ HREOC, despite Wilson’s later claim that an apology was not about guilt, arguably made that same connection implicitly when it argued that an apology was the first step in any reparation that the Commonwealth might make for its policy of child removal. That is, apology as reparation did not reduce to merely to an expression of sympathy but went to the task of making amends for what had previously been done by the Commonwealth. It implied guilt as well as sorrow.

More generally, the issue of guilt was at work in the many ways in which Indigenous peoples questioned the legitimacy of the Commonwealth, outside of any specific acts or failures on the part of any particular government. Linda Burney, Director-General of the NSW Department of Aboriginal Affairs, linked the reconciliation process to the need for white Australia to come to terms with a responsibility that ‘clearly belongs to it.’ Other Indigenous persons pointed to the process of colonisation itself as the original wrong suffered by Indigenous peoples. The Aboriginal Provisional Government maintained that

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464 Cited in D'Souza, N, 'Authors of Our Own History: The Stolen Generation: From Removal to Reconciliation'

465 Linda Burney wrote that reconciliation is about ‘healing ourselves as Aboriginal people, but it is also about white Australians coming to terms with history and a responsibility that clearly belongs to white Australia.’; Council for Aboriginal Reconciliation, Walking Together, No 13, September 1995.
the Commonwealth was illegitimate by virtue of the failure to obtain the consent of Indigenous peoples to colonisation. The Right Reverend Bruce Wilson, Bishop of Bathurst, echoed that formulation of colonial illegitimacy in his address to the Anglican Synod in 1996: ‘I hold that the unjust treatment of indigenous Australians is the original sin of this country.’

The second explanation for the repeated return of the reconciliation process to the question of guilt does not go to the narrowly legal question whether some identifiable contemporary Australians are guilty of some injustice towards Indigenous peoples. This was not a question amenable to legal resolution in the terms by which guilt is generally discussed in Australian society. It could not be. Our legal system generally points to a guilt that accrues for an individual’s breach of some positive legal duty. The question of ‘national’ guilt was of another order altogether. The problem of guilt was a problem of the language of reconciliation, not a problem of legal proof, or of individual culpability. The language of reconciliation, projected outwards onto a nation considered to have both identity and agency, took us towards this question of guilt without providing any resolution, any means of accommodating our respect for individual responsibility with the necessity of remaining faithful to this project of apologising and forgiving. The problem of guilt was a function of the language brought to bear on the relationship

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466 Former Keating government Special Minister of State Gary Johns critiqued this kind of position in his November 1999 article in Quadrant: ‘if we assume that all problems in Aboriginal society are caused by the original sin of invasion, and that Aborigines are always victims of this invasion, then the prospects for a breaking out of the victim/tyrant framework are bleak.’ Reconciliation ‘is thus a spiritual instrument, perhaps quite important in that regard, but only in that role.’ Johns, G ‘Reconciliation: Read the Fine Print’, Quadrant, November 1999, p16.
between Indigenous and non-Indigenous peoples in Australia, of the intersection of that language with certain ways of thinking about the nation as collective and as conscious, and with other assumptions about the relationship between personal will and individual responsibility. To say that the problem of apologising to the Stolen Generations was a problem of language is not to say: this was *merely* a problem of language. Or even, this was a problem of mere language, as though we could, by means of conceptual sifting and clarification, get clear of this problem, and find an answer. It is also to say that as much as we had these words, ‘reconciliation’, ‘sorry’, ‘guilt’, that they also had us.

Without a national parliamentary apology forgiveness remained a concern of background importance. The responsibility of Indigenous peoples to meet that apology with forgiveness simply did not arise. The sporadic discussion of forgiveness by various participants in the reconciliation does however illuminate the moral dynamic at work in the much larger and more contentious apology debate. ALP Senator Rosemary Crowley, commenting on the *Council for Aboriginal Reconciliation Bill* in 1991, had argued that ‘another dimension which is important to reconciliation is the notion of forgiveness’:

> We are dealing here in particular with the importance of white people forgiving themselves for the sins committed by their forebears. The history of white people in this country is utterly disgraceful in large areas....We have to bring that history into the full light of day. We have to confront it and we have to forgive ourselves for being part of it.\(^{467}\)

Echoing the remarks of Prime Minister Hawke, themselves a partial response to the Coalition suggestion that the ALP had based Aboriginal affairs policy on a sense of historical guilt, Crowley also argued that 'it is also very important that we do not then become confused about guilt that should be ascribed to people from two and three generations ago.' But her remarks were certainly ambiguous. There was no sense in talking of the transmission, via some unknown principle of hereditary guilt, of responsibility between the generations:

But we have to appreciate the process of forgiveness that has to be gone through. I do not believe we can move to a satisfactory reconciliation without admitting that those things happened and without going through the process of acknowledging and appreciating it and forgiving ourselves for it—or our parents and grandparents—because that forgiveness is part of a healing process that is necessary before we can satisfactorily work together or achieve reconciliation.468

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468 Crowley R.A., 15 August, 1991, Senate Hansard, p394. ALP Member for Chifley Roger Price also reflected on the value of forgiveness in 1998: 'We say sorry if we spill milk, or someone is sick or didn't do as well as they wanted to in some endeavour. Sorry is a small word, which we use often in every day life. To say sorry doesn't seem to me to be hard and I wonder if it is enough. To say sorry, it seems so little and in return the aboriginal peoples are offering forgiveness. It seems to me that forgiveness is the greater gift.' 9 December 1998, House Hansard, p1777. NSW MLC Peter Breen cited the example of South Africa to illustrate the link between forgiveness and reconciliation: 'without some form of reaching out to Aboriginal people, such as an apology, there is no acknowledgement of our sins of the past and, therefore, no forgiveness and no reconciliation. Our words of regret are hollow and empty of meaning....Without a formal act of seeking forgiveness, in other words, an apology, there is no reconciliation, either in contemporary Christian thought or in traditional indigenous culture'; Breen MLC, P, NSW Legislative
Indigenous peoples are strangely absent from Senator Crowley’s comments on forgiveness. It is in this sense that reconciliation is related more to the needs of non-Indigenous Australia than to the rights of Indigenous peoples. Apology related to the need for moral regeneration promised by forgiveness, as much as it did to the justifiable sense of wrong felt by many Indigenous persons. Crowley formulated the work of forgiveness as a gift to the self, not as an exchange in which apology and perhaps penance solicited a forgiveness from the wronged party which released and transformed the wrong-doer.

Rev. Tim Costello called on the government to ‘acknowledge the truth’, and turned to a religious idiom to explain the significance of dealing with the past; ‘in religious terms, we need repentance. We need to say we, as a government, stuffed up badly.’ Democrat Senator and Uniting Church Minister John Woodley also argued that ‘in relationships between individual people and between groups of people’

 Council Hansard, April 6 2000, p4256 Senator Brian Harradine quoted Anglican Bishop Malcolm of the Northern Territory; ‘deep down the majority of Aboriginal people long to hear at government level an apology and admission that this was Aboriginal land, and that they are its forefathers and that white Australia is sorry and that this was recognised and acknowledged from the start.’ 23 August 1988, Senate Hansard, p70.

409 See also Kenneth Minogue: ‘certainly it is the case that saturating Indigenous peoples in a mist of self-referential Western sympathy is merely one way in which we use them for the luxury of our own self-regard.’ Quadrant, September 1998, p20.

it is important to say sorry for the wrongs not just of the distant past but of the immediate past, so that forgiveness can be offered and reconciliation can then take place and be followed by the practical measures which all of us agree are absolutely fundamental and important.471

ALP Senator for NSW Michael Forshaw, speaking on the post-Wik amendments to the Native Title Act, also related native title to his Christian understandings of justice and apology.

The Prime Minister says that he is a Christian. I accept that he is and I accept that he fervently holds his Christian beliefs. My knowledge of Christianity is that the greatest act of Christianity was the crucifixion, when Christ gave his life for the sins--past, present and future--of mankind. If Christ could do that, the least the Prime Minister could have done as a Christian was to apologise for the sins and injustices visited upon our indigenous people. I want to take this opportunity to express my profound sorrow and regret and apology for what was done by our forebears to the Aboriginal people.472

Evelyn Scott argued that the reconciliation process was not about guilt but nevertheless characterised the process as an exchange of apology and forgiveness.

471 Woodley, J, 27 May 1997, Senate Hansard, p 3758
We now know, after seven years of work by the Council, that true reconciliation is in fact a process, a process of healing, of understanding, of forgiving and accepting forgiveness, of dealing with the legacy of gross disadvantage and inequality, and of recognising and valuing the Aboriginal and Torres Strait Islander heritage as a unique element of our national identity.\footnote{473}

The offering of apology and forgiveness was ‘a noble and dignified human exchange.’ Scott emphasised, amidst the debate on whether there should be a national parliamentary apology, the moral weight of forgiveness; ‘It is big step that we're asking the Australian people to take - and I want to make the point that the acceptance and forgiveness that we propose for Aboriginal and Torres Strait Islander people is just as big a step as the apology we propose for non- Indigenous people.’\footnote{474}

Phillip Ruddock made a more pointed critique of the relationship between apology, forgiveness and guilt in his reading of the Declaration Towards Reconciliation. Ruddock noted that Howard had already offered a statement of his personal sorrow: ‘the Prime Minister said on 10 May: “I am sorry for the injustices of the past but I do not apologise for them because I was not responsible.”’

\footnote{472} Forshaw, M, 27 November 1997, Senate Hansard, p9634.  
\footnote{473} Scott, E, Reconciliation and Recognition, Adelaide, 27 October 1998  
\footnote{474} Scott, E, Speech to World Members Conference of the English Speaking Union, Sydney, 30 August 1999  
\url{http://www.austlii.edu.au/au/other/IndigLRes/car/1999/3008_2.html}
When those points are made, people say, 'But, look, we're not blaming you. Our approach in seeking an apology is not about blame. All we want you to do is apologise.' I come to the point—and this is where differences do emerge sometimes about words—of: why do you get the concept of apology on the one hand but coupled with forgiveness on the other if it is not about culpability, if it is not about blame, if it is not personalised?....

And yet in much of this debate, regrettably, people say, 'Well, don't worry about the words. Forget the words and move on.' But the fact is that words are used in order to engender a degree of culpability upon which other questions, which the Leader of the Opposition wanted to avoid today, are being pressed, because culpability ultimately moves you on to another question, that is, compensation. The Leader of the Opposition said, 'Look, we don't want to talk about these other issues today.' He recognises that the Prime Minister has moved on a little. But he talks about the desire for a treaty.475

Richard Mulgan argued that the Australian reconciliation process was a project for 'moralising liberals':

475 Ruddock, P, 30 May 2000, House Hansard, p16540. Yamamoto describes forgiveness as a ‘mutual transformation’ and a ‘mutual liberation’ that corrects and restores relationships but warns that ‘integrating victimhood into group identity and political strategies, sometimes for many generations, nurtures claims of group entitlement that can be employed to manipulate oppressor guilt’; op cit, pp 196-7.
Moralising liberals are particularly prone to take on moral responsibility for the sufferings of others and are very comfortable with feelings of collective ‘self-reproach.’...the assumption of collective guilt can be seen as a form of moral elitism dressed up in the guise of apologetic humility.\footnote{476}

For Mulgan, the core of the reconciliation process should be the pursuit of a common citizenship in a legitimate nation-state.\footnote{477} The legitimacy of the Australian state will stem from the recognition of Aboriginal rights. He also discusses the task of accepting historical guilt through identifying with the past: ‘the main purpose of such acts is not so much an acceptance of continuing guilt as an expression of moral condemnation of such dispossession and a determination to deal justly in the future. In this respect, non-Aborigines are to take on guilt in order to be exonerated from guilt.’\footnote{478} Mulgan also notes that expiation is a ‘two-way process’:

\footnote{476} Mulgan, R, ‘Citizenship and Legitimacy in Post-Colonial Australia’ in Peterson, N and Sanders, W (eds) Citizenship and Indigenous Australians, p185. Mulgan argues that ‘collective self-worth is as important for predominant majorities as it is for marginalised minorities.’ He also argues that, rather than engage in such moralistic and dangerous project, we need to find a way to legitimate the state, protect rights of all citizens, despite ‘murky origins’ of most states; p186. Paddy McGuinness also pointed to an underlying moral dynamic animating the apology debate which he interpreted in both material and psychological terms. The demand for an apology was ‘part of the attempt to alter the moral balance of power to pave the way for further concessions to the demands of the official leaders of the Aboriginal community.’ For the non-indigenous supporters of an apology saying sorry was seen as ‘a kind of catharsis, an expiation of the guilt and shame they feel on behalf of their forebears, and indeed an act of self-hatred and abasement.’ McGuinness, P ‘Howard Risks Backlash By Saying Sorry’, Sydney Morning Herald, November 26 1998, p17

\footnote{477} ibid, p180.

\footnote{478} ibid, p188.
Acts of atonement and apology all require for their satisfactory completion that the injured party accept the admission of guilt as in some sense wiping the slate clean and making a new start. Only then can guilt be left behind.\textsuperscript{479}

Mulgan suggests, however, that conflict is endemic to polities which contain both colonising and colonised groups. In such situations political discourse should not be made up of terms like ‘reconciliation’, which imply the transcendence of disagreement, but should tend towards ‘accommodation’ and ‘compromise’, to the recognition and legitimation of difference within a framework of ‘peaceful mutual adjustment’.\textsuperscript{480}

This might sound reasonable (or even realist) enough. But Mulgan’s formulation is expressed as an ideal rather than as description of the kind of discursive work performed on the image of the nation in the name of ‘reconciliation.’ The Australian reconciliation process pointed towards an end-point of a grander, more ambitious nature than Mulgan himself recommends. The process was a spiritual task in which nation figured as more than an institutional or juridical forum for the resolution of conflict. In reconciliation politics forgiveness is a transformative political agency which makes possible the restoration of the political community.\textsuperscript{481} It puts an end to enmity, and makes peace, and

\textsuperscript{479} ibid, p189.
\textsuperscript{480} ibid, p193.
\textsuperscript{481} For example, Petersen writes that ‘forgiveness is not merely a juridical absolution from guilt; it is the medium to lead us to communion and reconciliation….it might be said that forgiveness is effective to the extent that it draws us into communal life characterized by transformative practices with our neighbour’; op cit, p19.
hence the future, possible. Ted Moses, Chief of the Grand Council of the Crees, spelt out what this transformative promise meant for the settler-democracies of the new world. ‘Everyone knows’, said Moses, ‘that the sovereignty, legitimacy and territorial integrity of these states is tainted and fundamentally impaired because of the unjust, immoral and murderous means employed in their establishment upon indigenous lands.’ The road to legitimacy was via reconciliation; ‘it is only upon the achievement of reconciliation that these states will be able to achieve legitimacy and successfully reach their full democratic development.’

Daryl Melham, then Opposition spokesperson on Aboriginal and Torres Strait Islander Affairs, was also looking for a transformation of sorts when he addressed a seminar at the University of Sydney; reconciliation was ‘an essential element of us all becoming Australians’:

it is accepting that we are now a part of a unique place that we continue to form and be formed by, rather than tourists from another place...it may be that we can never have an enduring, authentic national identity until we are reconciled to and with this unique and wonderful place, and its unique and wonderful indigenous people. Reconciled, we can be Australians. Not tourists, not colonists, not invaders, but Australians.

482 Moses, T, cited in CAR, Proceedings of the Australian Reconciliation Convention, Book One, pp48-49.
483 Melham, D, Contributing comments to panel discussion ‘Ethnicity and its Others’ University of Sydney, December 9, 1998, Online text 414756 www.aph.gov.au
Archbishop Peter Hollingsworth, now Governor-General, also pointed to a transformed polis as the end-point of reconciliation. A document of reconciliation had to 'promote the idea of social transformation. Transformation is the idea of healing and forming over past divisions. Of creating the circumstances of something new....making a new start.'

Apologies function in a manner approaching the miraculous. Tensions between wrong-doer and victim remain, and are part of the social memory. But for all practical purposes 'the social slate clean is wiped clean.' An apology is affirmative and reintegrative as well as transformational. Apology pertains to membership in a designated moral community. It is an affirmation of a community’s moral norms 'in which the offender simultaneously recalls and is re-called to that which binds.' Brooks similarly notes the way in which a confession, as no more than a mere form of words, 'is a verbal act of self-recognition as a wrong-doer and hence provides the basis for rehabilitation.' Foucault also refers to the transformative power of confessional technologies. The Christian sacrament of penance is a discursive ritual

in which the expression alone, independently of its external consequences, produces intrinsic modifications in the person who articulates it; it

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486 ibid, p8. Tentler also notes that the sacrament of penance effected a reconciliation 'with the self and with those social norms that the penitent has internalized'; Tentler, T, op cit, 13.
exonerates, redeems and purifies him; it unburdens him of his wrongs, liberates him, and promises him salvation.\textsuperscript{487}

The focus on forgiveness in the restorative justice literature shares this theological dream of a unity which transcends the obstacles to reparative justice. Martha Minnow, in her recent work, \textit{Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence}, examines the various experiments in social and political reconstruction undertaken in societies ravaged by brutal and often bloody conflict. Her goal is to ‘develop and deepen a vocabulary for assessing the goals and limitations of each kind of response to societal violence.’\textsuperscript{488} In particular, Minnow seeks to broaden the terms of such a response from ‘truth and justice’ to include another pair of goals, vengeance and forgiveness, and to find a path between them.\textsuperscript{489} Minnow identifies the call for forgiveness as derived from ‘diverse religious traditions.’\textsuperscript{490} Noting that, in cases of mass

\textsuperscript{487} Foucault, M, ‘About the Beginnings of the Hermeneutics of the Self’, in Carrette, J (ed) \textit{Religion and Culture by Michael Foucault}, p162. Tavuchis also notes that the saying of an apology, and not material restitution, is of greatest importance; ‘we cannot undo what has been done, only erase it by seeking forgiveness’, \textit{op cit}, p22.

\textsuperscript{488} Minow, M, \textit{Between Vengeance and Forgiveness}, p4. See also Minnow, M, ‘The Hope for Healing: What Can truth Commissions Do?’ in Rotberg, I and Thompson, D (eds) \textit{Truth versus Justice}; Minnow asks whether it is a mistake to ‘analogise individual trauma to the difficulties at a national level following mass violence’; p240. Rotberg adds, ‘there is a strong sense that a society can move forward only after it comes to terms with its collective angst’ ‘proper remembrances fulfill the collective needs of badly damaged societies’; ‘the new nation and thousands of individuals achieved an important catharsis’; Rotberg, R, ‘Truth Commissions and the provision of Truth, Justice and Reconciliation’ in Rotberg, R and Thompson, D (eds) \textit{Truth versus Justice: The Morality of truth Commissions}, pp 6-7.

\textsuperscript{489} Minow, M, \textit{Between Vengeance and Forgiveness}, pp 10, 21.

\textsuperscript{490} \textit{ibid}, p14.
atrocities, forgiveness may seem inappropriate—how could I reconcile with you after this?

Minnow points to the transformational appeal of forgiveness:

for some people working within the Christian tradition, forgiveness may not even require repentance by the wrong-doer. Instead, they hope that the act of forgiving may transform the wrongdoer, softening her or his heart and reinviting her or him into the moral community of humanity.  

Much of the restorative justice literature focuses on the example of South Africa. But Hannah Arendt had earlier made forgiveness part of her philosophy of ‘natality’. Arendt contended that forgiveness is a political faculty with the power to release recipients from the consequences of what they have done:

Forgiving, dismissing, in order to make it possible for life to go on by constantly releasing men from what they have done unknowingly. Only through this constant mutual release from what they do can men remain free agents, only by constant willingness to change their minds and start

491 ibid, p18
492 On ‘restorative’ justice see Tutu, D, No Future Without Forgiveness, p51, also Yamamoto, E, Interracial Justice: Conflict and Reconciliation in Post Civil Rights America, p11. Yamamoto writes of a ‘joint transformation in consciousness’ which might free the future from the past, of recalling pain in order to release it.
again can they be trusted with so great a power as that to begin something new.493

This release frees political actors to act anew, unconstrained by the consequences of past actions. Arendt counterposes forgiveness to justice, for while justice insists that we all be equal, forgiveness and mercy insist on inequality, ‘implying that every man is or should be, more than whatever he did or achieved.’ Forgiveness is for the person, and always takes the person, rather than the act, into account.494 But forgiveness is not for that reason outside of the concerns of political philosophy. In fact, forgiveness is a feature of citizenship or political friendship ‘essential to the vitality of the public-political realm.’495 Arendt does acknowledge, however, that not everything is forgivable; forgiveness is limited to those who act unknowingly, without criminal intent, to hinder politically established relationships. The attempt to forgive that which is unforgivable is outside the power of the political community.496 Arendt attributes to Jesus Christ the discovery of the role of forgiveness in human politics. That he made this discovery in a religious context and articulated it in a religious language did not detract from its relevance to ‘secular’ politics. In fact, Christ taught, contra the Pharisees, that forgiveness was a human and not


494 Bowen-Moore, P, Hannah Arendt’s Philosophy of Natality, p60.

495 ibid.

496 ibid, pp147-148. As Derrida puts it, Arendt considers that one can only forgive where one can judge and punish; the evil that is beyond all possible punishment is the unforgivable, the place where forgiveness stops; On Cosmopolitanism and Forgiveness, p59.
just a divine faculty. Wrong-doers could now search for forgiveness in places other than the temple. 497

Tutu makes a similar point in relation to reconciliation in South Africa. Noting that the ‘Nuremberg’ option, trials and victor’s justice, was as inappropriate to the South African situation as a ‘general amnesia’, Tutu identified a third option; the granting of amnesty to individuals in exchange for a full disclosure relating to the crime for which amnesty was being sought. More than amnesty, however, Tutu envisioned that perpetrators would also receive ‘forgiveness’. 498 The two need not be equated. Amnesty can relate, and in the quasi-legal context of the Truth and Reconciliation Commission did relate, primarily to the end of legal liability for crimes committed. Forgiveness, on the other hand, promises much more. Forgiveness was oriented to ‘restorative’ justice, which aims at harmony, redressing imbalances and restoring broken relationships. As in Arendt’s formulation above, reconciliation in South Africa promised a new beginning, even, as Tutu put it, a new birth.

But Tutu rejected the claim that this work of political regeneration was primarily political at all. This quasi-miraculous process of reconciliation, which promised to effect deep changes to the polis, to change it, and to create something new, was extra-political, or spiritual. ‘We were inspired not by political motives but by our Biblical faith’ 499:

497 Shriver, D, An Ethic for Enemies, p35.
498 Tutu, D, No Future Without Forgiveness, pp24-33.
499 ibid, p11.
our work would be profoundly spiritual. After all, forgiveness, reconciliation
and reparation were not the normal currency in political discourse.\textsuperscript{500}

Tutu also notes that nearly all of the black leaders had been educated in Christian schools
and ‘they said their commitment to reconciliation was due to the influence and witness of
the Christian churches.’\textsuperscript{501}

This image of reconciliation as the process in which justice is both affirmed and
transcended in an act of grace or forgiveness is a potently attractive one. Reconciliation
might be the technology of forgiveness that enables communities to make sense of
wrong-doing and to incorporate that wrong-doing, and that wrong-doer, into its own
understanding of itself, the means to create a narrative theodicy for the nation. That
understanding of reconciliation as effecting a new transformation transcending difference
and the obstacles to reparative justice is itself connected to the Christian language of
reconciliation, which promises a unity transcending difference, without the bloody
calculations and necessary insufficiency of ‘perfect justice.’ But what are the ethics of
applying such a technology between as opposed to within groups? Whose understanding
of the wrong done is made to prevail and on whose terms is forgiveness negotiated or
exchanged?

Minnow’s arguments relate primarily to those situations where social conflict has
diminished the ability of legal and political institutions to adequately respond to

\textsuperscript{500}ibid, p71.
collective and individual wrongs. The South African courts, for example, were never going to be able to try all those accused of crimes, even if this were thought to have been desirable. In the Australian context the situation is somewhat different. It is not that there hasn’t been genocide, or at the very least, violence and dispossession on a large scale, but that these events or wrongful acts have not disrupted the workings of common set of political or legal institutions. Rather, the Australian context is a colonial one, and these wrongful acts were the means by which and through which the institutions of the settler state were established. The Australian parliament and courts still function in a way that the institutions of Rwanda, for example, do not. It is not the failure of particular institutions in the face of mass violence that matters here, but the very existence of particular kinds of institutions in ongoing colonial context that ought to be of concern. That the Howard government could maintain its commitment to reconciliation in the parliament and at the same time defend, as Robert Manne has argued, the policies of assimilation in the Federal Court in *Gunner & Cubillo*, indicates that Australia’s political and legal institutions are still the site at which intersecting neo-colonial strategies meet.  

Apology and forgiveness promise the quasi-miraculous regeneration of the social condition. Despite or because of that promise, this logic of exchange nevertheless serves as a disciplinary tool capable of being used to manipulate social relations. The recipient of an apology, the wronged party, ‘holds the keys’ to the wrong-doer’s redemption. But this regenerative moral power ‘also entails a profound moral obligation.’ As Tavuchis

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501 *ibid*, p43.
502 *Gunner & Cubillo v Commonwealth*, (2000) 174 ALR 97. The case was one of the first of the ‘Stolen Generations’ civil actions against the Commonwealth. The plaintiffs were unsuccessful.
puts it, 'the helpless offender, in consideration for nothing more than a speech, asks for nothing less than the conversion of righteous indignation and betrayal into unconditional sin and forgiveness.' There are clearly differences between interpersonal and intergroup apologies. The collective apology exists by and for the record. Whereas a personal apology works through a logic of sorrow and remorse

the major structural requirement and ultimate task of collective apologetic speech is to put things on record, to document as a prelude to reconciliation... (it) does not necessarily express sorrow and, except in a pro forma fashion, need not in order to effect reconciliation between collectivities.

503 Tavuchis, N, op cit, p35. Tavuchis further explains: 'the earnestness of an apology... is marked by the scrupulous self-exposure to justifiable retribution while pleading for unconditional remission... by assuming such a vulnerable stance, and only by doing so, we now unobtrusively shift the burdens of belief and acceptance to the injured party'; p18. Apologies 'constitute strategic instances that illuminate complex social practices and the intricacies of moral commitments', p5. See also Moltman, J, 'Forty years after the Stuttgart Declaration' in 'Case Study 2: The Forgiveness and Politics Study Project', ed Brian Frost, London, New World Publications, 1987, p43, cited in Volf, M, Exclusion and Embrace, p120.

504 Where an apology is offered between groups of people individuals act only as 'official attendants, executants, agents or emissaries' offering 'mutually ventriloquial speech' characterised by formality rather than spontaneity. Such an apology must take note of conventional standards of 'decorum or protocol' as a demonstration of the honour and integrity of the wronged group; an apology offered without the proper authority or credentials is no apology at all. Unrecorded personal speech is of no value; Tavuchis, N, op cit, pp98-100

505 The collective apology 'exists only by virtue of its appearance on the record... that it appears on the record is the apologetic fact'; ibid, p102.

506 ibid, p108.
But the moral dynamic, the shifting burden of apology and forgiveness, remains at work in the collective apology as it does in the personal apology: ‘a collective mea culpa...shifts the moral burden onto the offended party by focusing upon the issue of forgiveness.’\textsuperscript{507}

Minnow claims that therapeutic purposes ‘contrast starkly with political ones, although in practice the two influence one another.’\textsuperscript{508} But the language of healing, linked to questions of apology and forgiveness, functions in a transformative/regenerative and hence political fashion. Apology rehabilitates the Commonwealth and effects a moral community between Indigenous and non-Indigenous peoples in Australia. Wole Soyinka, in lectures delivered at the DuBois Institute at Harvard in 1997, questioned the ethics of this kind of transformational exchange in relation to reconciliation politics in Africa. Soyinka wondered if the moral exchange effected by apology, forgiveness and reconciliation was a reasonable quid pro quo:

Truth as a prelude to reconciliation, that seems logical enough; but Truth as the justification, as the extraction or condition for Reconciliation? That is what constitutes a stumbling block in the South African proceedings.\textsuperscript{509}

He questioned whether, in the light of a general abhorrence of retroactive punishment, ‘we tend to sense a moral distortion in a proceeding that pursues the opposite—pardons a

\textsuperscript{507} Ibid, p113.
\textsuperscript{508} Ibid, p22.
\textsuperscript{509} Soyinka, W, The Burden of Memory, the Muse of Forgiveness, p13.
crime through retroactive dispensation.\textsuperscript{510} Whilst Soyinka rejected historical amnesia and endorsed the need for ‘healing’, or the ‘cathartic bliss that comes with closure’\textsuperscript{511}, he counterposed two strategies oriented to that end: reparation and reconciliation. Reconciliation seemed to offer the hope of a restored social and political community, but in fact it ‘erodes, in some way, one of the pillars on which a durable society must be formed- Responsibility. And ultimately, Justice.\textsuperscript{512} Having rejected the notion that it is open to the human mind to annul such a magnitude of suffering as has been witnessed in parts of Africa, Soyinka affirmed the principle that ‘some measure of restitution is always essential after dispossession.’\textsuperscript{513}

‘Some measure of restitution’: this seems reasonable enough. But there remains a sense in which restitution for past wrongs, no matter how costly, will always be inadequate to effect the reconciliation desired. As Soyinka rightly points out, it is not always open to us to affirm and hence forgive suffering of great magnitude. Some things remain unforgivable. Australian history is not without incidents that might be thought to go beyond the limits of human forgiveness. The recent debates on whether or not the practice of child removal was genocidal within the meaning of international law have not and probably will not end in agreement. But this is not the point. That it is open to us to understand these policies as genocidal indicates that the victims of those policies could legitimately feel an enormous sense of injustice, one that might conceivably go beyond

\textsuperscript{510} \textit{ibid}, p14.
\textsuperscript{511} \textit{ibid}, p20.
\textsuperscript{512} \textit{ibid}, p26.
\textsuperscript{513} \textit{ibid}, p36. Soyinka continues: ‘reparations…serve as a cogent critique of history and thus a potent restraint on its repetition’; p83.
the realm of the forgivable, whether they use the term genocide or not. And this is but one item on what would surely be a very long list of government policies that tended to work injustices on Indigenous peoples. And the question of the unforgivable goes deeper still, beyond the particular to the very foundations of Commonwealth power. We might be able to explain away disparities in socio-economic well-being by reference to the operation of particular government policies, and from this point suggest that a change in policy $x$ will produce an improvement in socio-economic indicator $y$. But it is harder to counter the point repeatedly raised by Indigenous persons since at least the 1970s that it is the jurisdiction of the Australian state to make policy and not the workings of any particular policy per se that constitutes the original and continuing injustice. There is no treaty, and without it, no consent to the constitutional status quo.

Could anything ever be said to match and cancel this original and founding act of injustice? Or is such a total measure of injustice as the failure to recognize the political rights of Indigenous peoples truly unforgivable? This is not a question I can answer. We cannot develop an adequate categorisation of particular examples of injustices as either forgivable or unforgivable because the choice of whether or not to forgive, or to understand this experience of suffering as either forgivable or unforgivable, is one only for the victims.\textsuperscript{514} But it follows from the fact that the unforgivable remains outside of the logic of apology and forgiveness that this economic understanding of reconciliation is not enough to do all the work of ‘healing.’ Something unforgivable escapes it. Marjorie

\textsuperscript{514} ‘We can imagine, and accept, that someone would never forgive, even after a process of acquittal or amnesty. The secret of this experience remains. It must remain intact, inaccessible to law, to politics, even to moral’ Derrida, J, \textit{On Cosmopolitanism and Forgiveness}, p55.
Thorpe pointed to that remainder when she parodied the kind of response to genocide dictated by a belief in reconciliation as convenient: ‘oh yes, that happened, we’re sorry.’\textsuperscript{515} Sorry, it would seem, is sometimes not enough.

Unlike Volf, Tutu and Arendt, Derrida attempts to dissociate his approach to forgiveness from the conditional and economic aspects of the Christian heritage:

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\textit{namely, the fact that forgiveness should be asked for through repentance, confession, transformation and in view of reconciliation, salvation, redemption and so on and so forth. I try to, against this prevailing part of the heritage, of the tradition, I try to show or to affirm that a pure act of forgiveness should be totally dissociated from any horizon of reconciliation, salvation or the economy of ‘healing away’ as they say in South Africa.}\textsuperscript{516}
\end{quote}
\end{quote}

Forgiveness offered within this economy of reconciliation was not a pure act of forgiveness at all. Rather, a pure act of forgiveness ‘should be absolutely gratuitous, gracious.’ Whilst Derrida accepted that there was a need to ‘heal away’ historical trauma, and ‘to make society work’, he would not call such healing forgiveness:

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\begin{itemize}
\item \textsuperscript{515} Thorpe expressed her concern about the ambiguity of the term reconciliation, an ambiguity she resolves by insisting that reconciliation be premised on the recognition that the colonisation of Australia was illegitimate without the consent of sovereign Aboriginal peoples; quoted in \textit{It's Not Easy Walking in There}, p88.
\end{itemize}
in all the geopolitical scenes we have been talking about, the word most often abused is “forgive”. Because it always has to do with negotiations more or less acknowledged, with calculated transactions, with conditions and, as Kant would say, with hypothetical imperatives.\textsuperscript{517}

These transactions in the name of national reconciliation point to the ecological or psycho-therapeutic work of restoring national unity, a work at once important (where justified) and irreducible to the maddening, unconditional gift of pure forgiveness.\textsuperscript{518} In light of Derrida’s comments, we could characterise reconciliation as a moral economy of exchange, in which apology and penance are met by forgiveness, unity and political regeneration.\textsuperscript{519}

Derrida rejects the traditional link between responsibility and freedom, wherein the agent is only responsible for that which the agent has willed, and linked that critique to his notion of the decision and the impossible:

\textsuperscript{517} Derrida writes: ‘So if there is a reconciliation in the colonial context, this doesn’t require forgiveness, that is something else, some other process, and if there is forgiveness, it doesn’t necessarily lead to reconciliation’; ‘A Discussion with Jacques Derrida’ in Theory and Event, 5:1.


\textsuperscript{518} Derrida: ‘It is always the same concern: to see to it that the nation survives its discords, that the traumatisms give way to the work of mourning, and that the Nation-State not be overcome by paralysis. But even where it could justified, this “ecological” imperative of social and political health has nothing to do with “forgiveness”, which when spoken of in these terms is taken far too lightly’; Derrida, J, On Cosmopolitanism and Forgiveness, p41.

\textsuperscript{519} Tavuchis also places the apology within the context of an exchange; the apology is “both the medium of exchange and the symbolic quid pro quo for, as it were, “compensation””; op cit, p33.
the fact is that we are responsible for some things we have not done ourselves. We inherit a language, conditions of life, a culture which is, which carries the memory of what has been done, and the responsibility, so then we are responsible for things we have not done ourselves, and that is part of the concept of heritage. We are responsible for something Other than us....if I go on drawing some benefit from this violence and I live in a culture, in a land, in a society which is grounded on this original violence, then I am responsible for it.520

Derrida does not accept that this need to apologise should be ‘constructed as a very old conception of collective responsibility.’521 Rather, it relates to his understanding of the decision, wherein only that which we are unable to decide is the possible subject of a decision. That which is already given or known to us is not a decision:

that is a terrible paradox, that is what blows up, explodes these traditional concepts. The decision, in order to be a decision, however mad it may sound, or crazy it may sound, a decision, my decision should not be mine, it should be, as impossible, the decision of the Other, my decision should be the

521 Archbishop (now Governor-General) Peter Hollingsworth doubted whether such an old concept of corporate responsibility, such as that of the Biblical tradition, had much sway in Australia today; ‘the bulk of Australians don’t understand that notion of corporate sin and guilt. It is a very deep and profound theological concept...we are a highly individualistic people, and therefore even our sense of sin is

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Derrida counterposes a pure and unconditional forgiveness, a forgiveness which for that reason can never appear as such, to a conditional and transactional forgiveness. But it is not simply a case of choosing one or the other of these alternative understandings of reconciliation. The relation between them is not one of antinomy but of aporia. The unforgivable marks a limit to this economic process of reconciliation. Not everything can be transformed by an exchange of apology and penance on the one side and of forgiveness on the other. But this limit is also the condition by which it makes sense to talk of ‘reconciliation.’ Forgiveness, if it is to appear as pure forgiveness and not as something to be bargained away or exchanged at a price, can only make sense in terms of the unforgivable: ‘must one not maintain that an act of forgiveness worthy of its name, if there ever is such a thing, must forgive the unforgivable, and without condition?’

Forgiveness, then, is something mad, excessive, hyperbolic and ‘impossible.’ To say that pure or unconditional forgiveness is impossible is not to say that such an event never happens or is completely unthinkable. Rather, forgiveness is impossible in the sense that


522 Derrida, J, ‘A Discussion with Jacques Derrida’ in Theory and Event, 5:1. Derrida identifies a similar paradox in the concept of ‘the gift’: ‘it is impossible for the gift to appear as such. So the gift does not exist as such, if by existence we understand being present and intuitively identified as such…if there is a gift, through this impossibility, it must be the experience of this impossibility, and it should appear as impossible”; ‘the gift is totally foreign to the horizon of economy, ontology, knowledge, constative statements, and theoretical determination and judgment’, ‘On the Gift: Discussion Between J.Derrida and Jean Luc-Marion’ in Caputo, J and Scanlon, M (eds) God, the Gift and Postmodernity, pp59-60.
we are faced with this aporia: we inherit a tradition which contains irreconcilable and indissociable imperatives, "an injunction at once double and contradictory." We must understand forgiveness in these two contradictory senses, as subject to the economy of reconciliation and as referring ultimately to the unforgivable, because without this latter injunction forgiveness would not make "the least sense."

The impossible does arrive, but it arrives as a great surprise, and cannot be induced by political processes, whatever name they go by:

Because if I say, as I think, that forgiveness is mad, and that it must remain a madness of the impossible, this is certainly not to exclude or disqualify it. It is even, perhaps, the only thing that arrives, that surprises, like a revolution, the ordinary course of history, politics and law. Because that means that it remains heterogeneous to the order of politics or of the juridical as they are ordinarily understood.

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524 *Ibid*, p35. See Norval, A.J on the structurally determined incompleteness of remembrance in South Africa. Norval argues that this incompleteness points to a "fundamental impossibility: the impossibility of completion as such"; "Memory, Identity and the (im)possibility of Reconciliation: The Work of the Truth and Reconciliation Commission in South Africa" in *Constellations* 1998 5 (2) pp250-65. "a full reconciliation with the other and with the self will never be possible. Since full reconciliation depends upon a complete coincidence with the self, it be definition rules out any relation to another which prevents such self-completion."

525 *Ibid*, p39. Derrida continues: "if "politics" is what you designate in speaking of "pragmatic processes of reconciliation", then, taking seriously these political urgencies, I believe also that we are not defined through and through by the political, and above all not by citizenship, by the statutory belonging to a Nation-State. Must we not accept that, in heart or in reason, above all when it is a question of "forgiveness", something arrives that exceeds all institution, all power, all juridico-political authority?"
The Australian reconciliation process did not initiate this surprising, maddening revolution. Even as the Sorry Books filled with signatures, it remained subject to this idea of an economic exchange. It was marked by great outpourings of 'good-will', and yet it still could not and cannot account for the unforgivable. That the process remained incomplete in 2001 did not point merely to the failure of the Howard government to partake of the economic logic of sorrow that the term 'reconciliation' seems to imply. No doubt the government could be criticised for its failure to offer an apology, to engage with Indigenous peoples in order to make the polity work. But over and above this failure stands the unforgivable as both the condition and the limit of political reconciliation. ‘Sorry’ is subject to a remainder for which apologising, with or without restitution, is not enough. Burnum Burnum had said that it might be possible to effect a reconciliation without words being spoken. He was alluding, I think, to the impossible possibility of a pure forgiveness, an unconditional sorrow, and a ‘true’ reconciliation, outside of this question of apologising and forgiving. That we have not yet come to such a reconciliation despite a decade of political ‘therapy’ does not suggest that it is impossible, in the literal sense of that word.
CHAPTER FIVE

CLAIMING A POLICY PENANCE: RECONCILIATION
AND JUSTICE
It was originally proposed that the Council for Aboriginal Reconciliation be known as the Council for Aboriginal Reconciliation and Justice. Although this name fell victim to opposition from within the Prime Minister’s office, Robert Tickner asserted in his second reading speech to the *Council for Aboriginal Reconciliation Bill*, and again afterwards, that reconciliation and justice were intimately connected: ‘as a nation we must not miss the opportunity presented by the centenary of Federation to address critical areas of Aboriginal disadvantage. There can be no reconciliation without justice.’

Commissioner Johnston had noted in his *Final Report* the discussion paper prepared by Tickner on reconciliation, endorsing the view that addressing disadvantage and self-determination are not outcomes of reconciliation but are its ‘building blocks.’ Indeed, the whole thrust of the Commissioner’s reconciliation recommendations was the production of a climate of public opinion in which Indigenous disadvantage could be addressed, and in that way, the deaths of Indigenous people in custody reduced.

This particular formulation, of the impossibility of reconciliation in the absence of justice, would come to be an almost stock-standard phrase for Indigenous people anxious to measure present government policy against the yardstick of reconciliation sentiment. Linda Burney, one-time CAR member, Deputy Director-General of NSW Department of Aboriginal Affairs, and Chair of the NSW State Reconciliation Committee, wrote that ‘the most fundamental prerequisite’ of reconciliation was social justice. And she

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526 Tickner, R, *Taking a Stand*, p34.
employed, again, the formulation ‘there can be no reconciliation without justice.’ Gatjil Djerkurra, then chair of ATSIC, had commented that the heart of reconciliation was the coexistence of rights. Others set out a more programmatic claim to the kind of justice they envisioned as a pre-requisite to reconciliation. Executive Director of the Kimberley Land Council Peter Yu listed seven elements as pre-requisites to reconciliation, including the recognition of Aboriginal customary law and the negotiation of a treaty or treaties between Aboriginal peoples and the Commonwealth.

The CAR also took up this link between reconciliation and justice, fashioning and recommending specific proposals in a series of reports to government. The CAR’s submission to the Keating government on its (promised, but never delivered) post Mabo social justice package, for example, sets out a comprehensive social justice agenda. Going Forward: Social Justice for All Australians included recommendations for dedicated seats in the Commonwealth parliament for Indigenous people, the recognition of customary law and native title rights and the complete implementation of the Royal Commission into Aboriginal Deaths in Custody recommendations. The Roadmap accompanying the 2000 Declaration included national strategies for the promotion of

531 Yu, P, The Fundamental Challenge’ in Walking Together, November 1998 Sir Gustav Nossal, formerly deputy chair of the CAR and Australian of the Year, described reconciliation as a two-sided coin, both symbolic and material. In that formulation, an apology to members of the Stolen Generations could not be separated from measures designed to reduce indigenous poverty or sickness; Symbolism and Substance in Aboriginal Reconciliation, Address to the National press Club 20 April 2000.
Indigenous rights, for overcoming disadvantage and for economic independence. Specific proposals ranged from constitutional change to changes in the way the Council of Australian Governments monitors and evaluates strategies for the delivery of public services to Indigenous peoples. Further recommendations included proposals for better access to private capital through Australian financial institutions, the recognition and protection of intellectual property in Indigenous art and culture and improved employment and training opportunities. At the conclusion of its third term, the CAR identified these proposals, largely ignored over the course of the nineties, as part of the ‘unfinished business’ of reconciliation.

Even if we accept that reconciliation was impossible in the absence of some measure of justice for Indigenous peoples, the question still remains: what kind of justice does reconciliation require? Various concepts of justice were at work in the Australian reconciliation process. The differences between them did not add up to a greater measure of justice for Indigenous peoples, as though one could simply add one measure or dimension of justice to another to produce some kind of identifiable and measurable meta-justice. Rather, the differences between these competing concepts of justice created a whole series of confusions and debates which gave little credence to the CAR’s claim that reconciliation was not vague or slippery, but practical and programmatic.

Labor and Liberal governments, in many ways far apart on Indigenous affairs, shared a base-line commitment to a distributivist conception of justice. Each linked the reconciliation process to an improvement in the socio-economic status of Indigenous
Australians relative to non-Indigenous Australians. For the Howard government this was where justice stopped. The ALP went somewhat further, accepting, for example, that justice for the Stolen Generations would require not just the payment of monetary compensation but a national parliamentary apology. It offered, although in rather limited doses, two additional measures of justice: reparation, in terms of accounting materially for past wrongs, and recognition, by way of the symbolic recognition of a particular Indigenous experience of suffering. But if ‘recognition’ was a form of justice in its own right, then it was still necessary to ask, what exactly is to be recognized, and by whom? Supporters of Indigenous sovereignty called for the recognition not just of a particular experience of Indigenous suffering, but recognition of indigeneity as a source of political and legal rights. Historical wrong-doing and contemporary guilt were at issue in both the sovereignty and apology debates. They were easily confused, not least because both bore on the debates about Australian historiography and on the moral status of the Commonwealth. But they should be carefully distinguished in order to see how the one related to a Christian image of forgiveness and unity and the other called for a more exacting reconciliation based on the performance of penance or restitution; that is, giving back what was lost, understood broadly as the loss of sovereignty.

The two kinds of recognition politics pursued within the overarching notion of reconciliation, recognition of a particular Indigenous experience of suffering and recognition of Indigenous peoples as politically organised societies, are not wholly compatible. The difference between them is marked by the way in which each

533 See also ‘Introduction’ in Ivison, D et al, op cit, p20.
understands the shape of the political and legal structures which ought to govern the peoples of Australia. Where the call for a just recognition of Indigenous suffering connected to the apology debate, it contributed to the notion that a reconciled Australia should or would be a unified political order. Howard drew an explicit connection between his statement of regret and the planned celebration of the Centenary of Federation in 2001. It was important that

we can all come together as Australians to celebrate the centenary of our nation. We want every Australian to feel that they can unqualifiedly and without any constraint, without any hesitation, participate in that great national celebration. In order to do that, our indigenous Australians must feel a proper sense of reconciliation and a proper sense of being, in every way and totally, part of the Australian community. This motion will make a contribution towards that.\(^{534}\)

The reconciliation process promised to fashion a moral order to map onto a political order already established by the force of colonisation. It promised legitimacy for the settler state. The call for the recognition of indigeneity as a source of rights, on the other hand, revived the treaty debate. It called into question the notion that Indigenous and non-Indigenous peoples in Australia ought to be governed by the same political institutions, or that they necessarily had the same rights within the same legal system.

Justice as recognition of Indigenous sovereignty appeared to threaten the desired or assumed unity of the Australian Commonwealth. Reconciliation as forgiveness matched by some form of penance promised a unity transcending not only political and cultural difference but also the problems of coming to any exact account of what had been done and what had been lost. In that sense, the problem of justice goes to the *shape* of the Australian polity, and the nature of the unity desired. For example, would a reconciled Australia be an association of Indigenous and non-Indigenous peoples, their relationship governed and framed by a treaty? Or would it be a nation in which Indigenous and non-Indigenous do not exist in anything other than a cultural or social sense, where the only political status available is the individual and hence universal citizen? This problem can also be characterised as the difference between the politics of sovereignty, which contests the legitimacy of the Commonwealth and asserts that there are, within the geography of Australia, multiple continuing political orders \(^{535}\), and the politics of reconciliation, which relies on or assumes difference but which nevertheless seems to point to a unity transcending that difference.

This chapter aims to follow the theological aspects of the link between reconciliation and justice evident in the Australian reconciliation debates. In particular, it considers the way in which the establishment of the process both legitimated and limited Indigenous justice claims. The link between justice and reconciliation did not derive simply from the political struggles of Indigenous peoples to achieve a measure of justice, and to define the terms of political debate in a manner favourable to themselves. That link was already

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\(^{535}\) See Webber, J ‘Beyond Regret: Mabo’s Implications for Australian Constitutionalism’ in Ivison, D, et al
present in the language brought to bear on the problem. The language of reconciliation is already open to, it insists upon, a kind of penance that can but does not necessarily have to be understood as analogous to 'justice.' The language of reconciliation, as a background agreement in forms of language derived from Christian theology and penitential practice, enabled Indigenous peoples and their supporters to make the claim that that 'there is no reconciliation without justice.'

Norman Habel took up the link between reconciliation and justice in his book, Reconciliation: Searching For Australia's Soul. The story of Jesus 'is as much about liberating the socially oppressed as it is about forgiving spiritual sins.' That claim was reflected in Habel's distinction between 'true' and 'false' reconciliation, where only the former acknowledged the 'justice principle.' Church leaders to stress the link between the symbolic and the practical elements of reconciliation included the Primate of the Anglican Church, Keith Rayner and the General-Secretary of the Uniting Church, Gregor Henderson.536

Some Christians adopted a more ambivalent approach to the government's policy of reconciliation. By 1998 the Uniting Church congregation in Pitt St Sydney was pointing to the gap between the language and practice of governmental power:

(eds) op cit. pp60-88.

536 Tickner, R, Taking a Stand, pp35-36. Rayner had written to the Tickner: 'Our Church would be very pleased to see this symbolic act of reconciliation followed up by concrete steps to make it a reality between white and black Australians. We shall therefore be very receptive of any proposals which the Government may make, and we hope that your desire for all-party support will win a positive response from the members of other political parties.' Cited in Johnston, E, op cit, 38.21.
We remember when 'control' meant slaughter and dispossession, when
'protection' meant imprisonment, when 'welfare' meant kidnapping
children, and we wonder now what 'reconciliation' might mean.\textsuperscript{537}

One ambiguity of reconciliation discourse in relation to the problem of political justice is
the relationship between reparation or penance and forgiveness. On the one hand, the
structure of reconciliation politics, built around confession and recollection of the past in
the construction of a new national narrative, recalls, before it can forget or annul, a
history of injustice. We might say, cynically, that words are cheap. But the 'naming' of
injustice is not in itself a simple task. In a polity characterised both by deep diversity and
by competing understandings of the past, agreeing on the nature and extent of injustice,
and on culpability for that injustice, is not likely to be easy. The apology debate is but
one example of the difficulty of such a process. There was, however, at least some
measure of agreement on the history of Indigenous/non-Indigenous relations in Australia.
The Howard government was eager to reduce those 'stains' to mere cosmetic blemishes.
The Labor Party, for its part, generally accepted a revisionist understanding of Australian
history but refused to draw from it any conclusions as to the legitimacy of Australian
sovereignty. Many Indigenous Australians considered that sovereignty to be
fundamentally flawed. There was, despite these differences, a measure of common
ground. It was accepted that the relationship between Indigenous and non-Indigenous

\textsuperscript{537} 'Liturgy for Reconciliation 1998: Prayers of Hope', Multi-faith Meeting, Uniting Church, Pitt St.
Sydney

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peoples in Australia was marked by some degree of injustice. And so we could proceed to the next point: making a claim for a ‘policy penance.’

Goldman argues that reconciliation is not easy, cheap or hasty. He identifies the call, ‘forgive and forget’, or ‘isn’t it time for reconciliation?’, as one made mostly by perpetrators seeking to remove the focus from their own actions. Goldman also argues that reconciliation is not opposed to ‘liberation’, and that reconciliation can only occur in a social context where a commitment to change animates the desire for peace: ‘truth telling alone does not bring about reconciliation. We are obligated to create conditions that will not repeat the violence of the past.’ Volf likewise argues that it would be ‘totally unchristian’ to seek a final reconciliation before present injustices have been resolved:

Any such plea plays into the hands of the oppressor by trying to persuade those of us who are oppressed to accept our oppression and to become reconciled to the intolerable crimes that are committed against us. That is not Christian reconciliation, it is sin.

Naming injustice licensed a claim to a more exacting reconciliation, preceded by penance as well as by apology. But the same language also licenses the claim that reconciliation

implies an easy forgiveness or forgetting, in the name, as then NSW National Party leader Ian Armstrong put it, of ‘getting on’ with the future. The National Farmers Federation Aboriginal Affairs Committee Chair, John McKenzie, told a 1993 conference hosted by the CAR and ATSIC that ‘dwelling on the past’ was not a good way to further reconciliation. He further elaborated

Now, a lot of people have, in fact, treated Aborigines badly and they probably still do but reconciliation means putting that behind us. Not forgetting it but putting it behind us and talking positively about the things we agree on, not the things that divide us.\(^{541}\)

The theology of reconciliation does not answer the problem, ‘what does justice entail in this concrete political situation?’ but frames that question in a particular way and then provides a number of solutions, none of which are determinative. The conservative elements of Australian reconciliation politics are not a corruption of theology, but are part of that theology in the sense that they are a product of the same theological language game which makes drawing a line between orthodoxy and heresy difficult, and for our purposes, pointless. It is the language of reconciliation, and not its misuse, which gives rise to the claim that reconciliation politics is cheap, and that it implies, or indeed demands, an easy forgiveness, without reparation.

\(^{541}\) CAR, The Position of Indigenous Peoples in National Constitutions: Speeches from the Conference, pp80, 85-86. Robert Tickner later wrote, however, that ‘most of the contributions by the NFF leadership during the Mabo debate were thoughtful and constructive’; Taking a Stand, p91.
Social Justice and ‘Practical’ Reconciliation

Sharp defines distributive justice as ‘giving to classes of people what is theirs by right, where classes are distinguished by characteristics that call for or generate those good things that can be thought to be demanded for them as a right.’\textsuperscript{542} This understanding of justice follows from the distributive principle of equality, itself derived from a commitment to the equal moral worth of all individuals. Distributive justice entails both formal and substantive equality: equality before the law without discrimination or unjustified differential treatment and substantive equality of access to public goods and services. A commitment to distributive justice also entails compensating individuals and communities for any ‘undeserved disadvantage’ which they suffer. As Patton argues,

the current discrepancies between the indigenous and non-indigenous population in relation to health, education, employment, treatment by the criminal justice system and so on constitute undeserved disadvantage....The indigenous population is disadvantaged in these and other ways as a result of colonial policies inflicted on them by governments.\textsuperscript{543}


\textsuperscript{543} Patton, P, \textit{Constitutional Paradoxes: Native Title, Treaties and the Nation}, AIATSIS Seminar Paper, p2, \texttt{http://www.aiatsis.gov.au/rsrch/smrnp/papers/patton2.pdf} Not all contemporary liberals support such reasoning. Robert Nozick, for example, rejects ‘end-state’ theories of justice, arguing instead for ‘historical process principles’ which consider how a particular distribution of goods originated; ‘patterned principles
The content of distributive justice depends, however, on a measure of equality, but this measure must vary depending upon what are taken to be the fundamental social goods to which all are equally entitled. In a polity marked by deep cultural differences a concept of distributive justice must necessarily be of limited utility. Such a concept does not, absent an agreement on a measure of equality, clarify the requirements of justice between cultural groups but may in fact tend to illiberality. To reduce the list of possible grounds of entitlement to one common ground requires, as Sharp points out, "an uncommonly coherent view of what is good for people; and the more coherent the view is the more it excludes competing conceptions of the good life."

This might be putting the case against a distributivist conception of justice too strongly. Indigenous and non-Indigenous participants in the Australian reconciliation process were certainly able to identify a common set of 'goods' of which it was possible to talk of a

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of distributive justice involve appropriating the actions of other persons. Seizing the results of someone's labor is equivalent to seizing hours from him and directing him to carry on various activities...This process whereby they take this decision from you make them a part owner of you; it gives them a property right in you...End-state and most patterned principles of distributive justice institute (partial) ownership by others of people and their actions and labor'; cited in Thakur, S.C, Religion and Social Justice, p25.

544 ...once it is realised that cultural differences may affect the conception and weighting of various social goods, the limitations of the idea of equal treatment become apparent'; Patton, P, Justice and Difference, p86. Sharp is also pessimistic about the prospect of coming to a common understanding of justice in conditions of cultural pluralism; 'there can be no permanent settlement of particular cases or agreement on conceptions of justice. The content of justice is contingent on what particular societies take to be good for people and what activities are being considered'; op cit, p30.

545 Sharp, A op cit, p30. Sharp also argues that even if agreement could be had on who belonged to what group, and on what constituted a group, there would still be disagreement on the grounds of entitlement. Are rights to goods derived from moral entitlement, legal entitlement, need, desert?
just or fair distribution. Even if we account for the possibility that there may in many instances have been a good deal of mutual misunderstanding, it still seems that many of these disputes went to the sources and measure of entitlement, rather than to the identification of goods. Then Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Dodson’s definition of what social justice means for Indigenous peoples does not only refer to a particular Indigenous experience of deprivation but also to commonly held ideas of what it means to have an adequate standard of living, ideas that non-Indigenous people in Australia readily apply to themselves. This was a point of understanding, of agreement concerning at least some of the goods to which a distributivist conception of justice might refer:

social justice must always be considered from a perspective which is grounded in the daily lives of indigenous Australians. Social justice is what you face in the morning. It is awakening in a house with an adequate water supply, cooking facilities and sanitation. It is the ability to nourish your children and send them to a school where their education not only equips them for employment but reinforces their knowledge and appreciation of their cultural heritage. It is the prospect of employment and good health; a life of choices and opportunity, free from discrimination. 546

There is a commitment common to both the major parties to redress Indigenous ‘disadvantage’ on the basis of need. And there was a wider consensus that included
almost all Indigenous participants in the process that, even if the focus on the practical were not enough to satisfy all the demands of justice, then improved health, housing and employment for Indigenous peoples were positive in their own right. Howard echoed Tickner when he said that reconciliation must include real and measurable improvements in key socio-economic indicators.\textsuperscript{547}

Admitting that this is a point of agreement or understanding does not, however, completely solve the problem of what justice for Indigenous peoples entails, or of the relationship between justice and reconciliation. ‘Need’ is not accepted across the Indigenous political spectrum as the primary source of entitlement to goods. Noel Pearson, for example, has pointed to the destructive consequences of a passive, welfarist mentality, and argued for a greater reliance on mutual obligation in Indigenous affairs policy. The Aboriginal Provisional Government, on the other hand, has derived title to land and hence entitlement to mining royalties and agricultural leases from Indigenous sovereignty. The Coalition is diametrically opposed to such a claim: Indigenous disadvantage is to be addressed as an incident of Australian citizenship. The APG and the Coalition are not even talking about the same concept of justice. Whilst the Coalition talks of an entitlement to distribution with the confines of an existing polity, the APG is referring to the right to levy taxes as an incident of sovereign nation-hood.

\textsuperscript{546} CAR, \textit{Going Forward: Social Justice for the First Australians},

\url{www.austlii.edu.au/au/orgs/car/going_forward/10.html}

\textsuperscript{547} Gardiner-Garden notes that the Howard government largely avoided the terminology of social justice, and preferred to talk in terms of self-management and self-empowerment; \textit{From Dispossession to Reconciliation}, p20.
Justice as distribution could not cover all of the senses in which Indigenous peoples claimed that they had been unjustly treated. Such a concept of justice tends to obscure the terms in which groups articulate claims to justice by atomizing individuals in order to place them in a field of possessive relations. A distributivist conception of justice would tend, on its own, to individualise or atomise relations between Indigenous peoples and the state, and would for that reason cut against the claim that justice for Indigenous peoples requires the recognition of collective and specifically Indigenous rights. To reduce Indigenous justice claims to this one category of distribution is to effect something of a crude translation which does not do justice to those claims as have already been made, particularly when those claims extend beyond the material and into aspects of self-government and sovereignty.

ATSIC Chair Geoff Clark, for example, considered the policy of practical reconciliation to be demeaning insofar as it was limited to the provision of those goods to which Indigenous persons were already entitled as an incident

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548 Young argues that ‘such a model implicitly assumes that individuals or other agents lie as nodes, points in the social field, among whom larger or smaller bundles of social goods are assigned. The individuals are externally related to the goods they possess, and their only relation to one another that matters from the point of view of the paradigm is a comparison of the amount of goods they possess. The distributive paradigm thus implicitly assumes a social atomism, inasmuch as there is no internal relation among persons in society relevant to considerations of justice’; Justice and the Politics of Difference, p18. See also Thakur’s discussion of David Hume, op cit, p7. Ivison, Patton and Sanders make a similar point: ‘the distinctiveness of indigenous claims, if understood as deriving from their attachment to the land and the history of their relations with the colonial state, is lost or rendered opaque in discussions of distributive justice.’ The construction of a list of ‘goods’ to be distributed and the principles upon which such goods will be fairly distributed may ‘misunderstand not only the particular value of culture or land being appealed to, but also the nature of the moral wrongs upon which the claims are based-the historical legacy of colonialism’; Ivison, D, Patton, P and Sanders, W, ‘Introduction’, Political Theory and the Rights of Indigenous Peoples, p10. See also Ivison, D, ‘Political Community and Historical Injustice’ in Australasian Journal of Philosophy, vol 78, no 3, p 362.

549 See also Patton, P, Constitutional Paradoxes, p2.
of citizenship. Reconciliation would also extend, on Clark’s view, to the recognition of the political rights of Indigenous peoples.

Redistribution, on the basis of ‘need’ or ‘disadvantage’, and as an incident of citizenship, is however the only aspect of justice addressed by the Howard government’s policy of ‘practical reconciliation.’ The Coalition attempted to dissociate the ‘sociological’ issue of reconciliation from matters more properly considered part of ‘property law’, thereby disconnecting the reconciliation process from the native title regime. The government argued that its own policy had refocussed reconciliation on the ‘practical’ task of improving the socio-economic status of Indigenous peoples. The cornerstone of reconciliation, said Howard, was to be a ‘renewed national focus on the causes of Aboriginal and Torres Strait Islander disadvantage. Through practical measures... the government has focussed its efforts on areas of Indigenous health, education, housing and employment.’ Howard further elaborated on his vision of a reconciled Australia as a nation ‘in which primarily the opportunities for people of Indigenous background were exactly the same as for all of us’:

that means their health, their employment, their education....and proper respect of the fact that above everything else we are united together as Australians, living under one body of law, that to which we are equally


551 Howard also argued that reconciliation would not ‘work’ if ‘it puts a higher value on symbolic gestures and overblown promises rather than the practical needs of Aboriginal and Torres Strait Islander people... ’; Canberra Times, 27 May 1997; cited in Bennett, S, op cit, p36.
accountable but from which we are all entitled to an equal dispensation of justice. Now that is how I see, in a nutshell, the reconciliation process.\textsuperscript{552}

John Herron, Aboriginal and Torres Strait Islander Affairs Minister in the incoming Howard government, outlined the government's understanding of reconciliation as a process consisting of three parts:

1. Working together to ensure all Australians share equally in a common future;

2. a realistic acknowledgment of our inter-related histories;

3. a shared commitment to overcoming Indigenous disadvantage.\textsuperscript{553}

The Labor party had adopted, to a degree, a revisionist reading of Australian history and had acknowledged that injustice had marred the relationship between Indigenous and

\textsuperscript{552} Howard, J, \textit{Press Release}. November 7 1997, Online Text 972038 \url{www.aph.gov.au}

\textsuperscript{553} Howard, \textit{Opening Address}, Australian Reconciliation Convention, 26 May 1997, Online Text 962966, \url{www.aph.gov.au}. Bennett notes the shift from self-determination to self-empowerment under Herron. A contributor to the ATSIC News described the difference as follows; 'self-empowerment varies from self-determination in that it is a means to an end- ultimately social and economic equality, rather than an end in itself'; Summer 1997, p7, cited in Bennett, S. op cit, p66. Tony Staley, federal president, \textit{Liberal party of Australia}, provided a 'liberal view' of reconciliation: full equality of opportunity to participate in Australian social, cultural and economic life, and, address unacceptable levels of Aboriginal and Torres
non-Indigenous peoples since 1788. It also acknowledged that the legacy of that injustice was contemporary disadvantage, and that measures were now required to ensure that Indigenous Australians would enjoy a measure of social justice. The Coalition, in its vision of reconciliation as a ‘practical’ policy initiative aimed at health, housing and other measures of socio-economic well-being, claimed to have separated the politics of Aboriginal affairs from the larger historical debates which suggested that not all was well with the sovereignty of the Commonwealth. Indigenous disadvantage was to be addressed, as the Coalition saw it, as an incident of citizenship. But practical reconciliation was not a policy from which the symbolic was absent. The Coalition did not link reconciliation to socio-economic well being as a means of performing a penance that would account for the past, complement an apology, and solicit forgiveness. Quite the opposite. For the Coalition the focus on the ‘practical’ was not code for penance, but an attempt to escape or to subvert the symbolic and moral issues to which penance referred.

Practical reconciliation emerged as the Howard government’s answer to the historical debates regarding both the Stolen Generations and Australian history in general. This is not to suggest that the policy was an absolute beginning, a fresh turn in conservative Indigenous affairs policy direction. Practical reconciliation was in one sense a return to the view expressed by Michael Wooldridge in 1991, that the most important part of Indigenous affairs policy was service delivery, and not political symbolism or historical revisionism. But there is a more potent message here as well. The Howard government’s

Strait Islander disadvantage; Council for Aboriginal Reconciliation, *Walking Together, Special Edition*, 269
approach to native title and to the Stolen Generations also recalls the 1991 comments of Western Australian Liberal Senator Ian Campbell, who told Indigenous peoples not to call for a treaty lest they face a backlash from non-Indigenous Australia. Practical reconciliation was not an escape from the politics of history but a calculated attempt to nullify the particular kinds of symbolism articulated by Indigenous peoples when they derived their entitlements to land or to government services from prior ownership, historical dispossession or indigeneity.

Howard and other conservatives sought to tell a history in which there was little, if any, wrong-doing. Why would this have been important to them if they had really refused to draw a connection between the politics of today, between the status of the moral relationship between Indigenous and non-Indigenous peoples now, with the events of the past? The conservatives were as eager to deny Indigenous entitlement to measures both practical and symbolic by refusing to recognise past wrongs as others were keen to build a claim for recompense out of that same mistreatment. The Coalition’s attack on ‘black armband’ history, its refusal to offer a parliamentary apology to the Stolen Generations, and its emphasis on the strict liberal equality of all Australian citizens cannot be dissociated from the Coalition’s opposition to the Indigenous sovereignty claim. Just as the official reconciliation project was a response and an alternative to treaty politics, the debates and the political imagery which characterised that project were also, in an

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indirect way, a response to the claim advanced by some Indigenous peoples that they were and remain sovereign.

Reparative Justice

Sharp describes reparative justice as 'the idea that a thing wrongly taken or destroyed must be restored or that a substitute good be provided, and that compensation be made for the lack of the good in the period when it was wrongly absent.' The simplicity of the definition belies the great practical and conceptual difficulties of applying a concept of reparative justice to an ongoing colonial condition. Jeremy Waldron has pointed to the difficulties of discerning exactly what was lost, and the counter-factual dilemma of imagining what might have been had such and such an event never occurred. But there are problems of justice here too: how is it just to deny title to a land owner who has purchased in good faith and without knowledge of competing Indigenous claims, and has done so many years after dispossession?556

The problems described as obstacles to reparative justice might derive more from confusion surrounding the proper aims of reparative justice than anything else. The aim of reparative justice is not the restoration of a prior state by somehow undoing past wrongs. Such a process is, in many cases, simply impossible. The aim of reparation is more limited. The goal is, as Patton puts it, 'not to undo past wrongs but to go some way towards removing their consequences and re-establishing what would have been the case if those injustices had not been perpetrated.' The obstacles to reparative justice, therefore, are not in all cases insurmountable, and they do not justify the reluctance of Australian courts and governments to adopt a concept of reparative justice in appropriate cases. The practice of child removal is one policy for which a measure of reparative justice would be possible. Certainly the Labor party and HREOC considered it possible to make some kind of reparation in the case of the Stolen Generations. Each has recommended that money compensation be paid to the victims of the child removal policies and their families. Reparations may also have a symbolic significance, highlighting society's determination that past wrongs will not be repeated.

557 Patton, P, (citing Waldron, J, 1992, p8) *Justice as Difference*, p88. Judge Edward Durie of the Waitangi Tribunal also considered that reparation did not aim at an exact equivalence; 'the issue is the fair allocation of the country's resources between Aboriginals and the country at large'; CAR, *The Position of Indigenous Peoples in National Constitutions: Speeches from the Conference*, p70.

558 Patton, P, *Constitutional Paradoxes: Native Title, Treaties and the Nation*, p2. Sharp also points to an innovative model of reparative justice developed by the Waitangi Tribunal; recognizing the limits of 'backward looking' justice the Tribunal developed a 'forward looking jurisprudence' based on history (ie detailed wrongs) and the establishment of a set of rules, derived from the treaty, breach of which would trigger reparation; *op cit*, pp129-131.

559 Waldron, J, *op cit*, pp6-7: 'quite apart from any attempt genuinely to compensate victims or offset their losses, reparations may symbolize a society's undertaking not to forget or deny that a particular injustice took place, and to respect and help sustain a dignified sense of identity-in-memory for the people affected.' Desmond Tutu has similarly argued that reparation was not to be confused with compensation, for no
Rev Brown of the Uniting Aboriginal and Torres Strait Islander Congress saw the need for reconciliation as stemming from the 'profound sense of injustice' Indigenous peoples rightly felt in regards to their dispossession by and subsequent mistreatment at the hands of non-Indigenous people. Although the past could not be undone, justice required that Indigenous and non-Indigenous peoples 'negotiate a settlement, an agreement or contract in which Indigenous people are treated with respect and equality. Such a settlement will need to deal with matters of compensation.' The *Declaration Towards Reconciliation* linked, in a characteristically ambiguous manner, past injustice to contemporary rights of self-determination:

And so, we pledge ourselves to stop injustice, overcome disadvantage, and respect that Aboriginal and Torres Strait Islander peoples have the right to self-determination within the life of the nation.

The prospects for Indigenous self-determination are bounded, in this formulation of reconciliation, by 'the life of the nation.' That qualification can be looked at 'pragmatically', and viewed as the inevitable result of a process initiated, funded by, and serving the nation-building interests of the settler-state, and in which Indigenous aspiration must necessarily be limited. An investigation of the theological elements of the money payment could make up for what was lost. Reparations would be primarily symbolic. Reparation was not then an end in itself, but was oriented to, and was part of, the higher goal of reconciliation, or the restoration of broken relationships; Tutu, D, *No Future Without Forgiveness*, p?

concept of reconciliation provides a different kind of insight: the prospects for self-determination were already limited to within the life of the nation by the language brought to bear on the problem of Indigenous/non-Indigenous relations. As a picture which held us captive, the language of reconciliation limits at the outset the capacity of Indigenous peoples to claim that they were and remain sovereign. Reconciliation, more than being simply the end of hostility, is theologically connected to the desire for a unity that transcends difference. At the same time, reconciliation is premised upon, and only makes sense in terms of, difference. In this particular case the acts of satisfaction or reparation required as a kind of policy penance for past injustice cut against that desired or promised unity. To restore what was lost to Indigenous peoples is not just to return lands, but to recognise the political autonomy of those Indigenous peoples who were and remain sovereign.

Giving back what was lost is in some respects at odds with the end-point of unity promised by reconciliation. Such a task of reparation was, moreover, simply impossible. How to give back the Australian land mass after it had been so greatly transformed by settlement and after it had become the home to some twenty million people? In reconciliation politics this insufficiency, related to the unbridgeable gulf between the human and the divine, was understood, analogously, in terms of the impossibility of coming to any strict account of what had been done and what had been lost. It was not rarely said that the past is past and cannot be undone. But the fork in the conceptual road was whether the nation should ‘move on’ and focus on the future, or rather should attend to the past lest it haunt us forever. Common amongst those who considered that the past
was in need of attention was the view that the past is not altogether behind us, but lives on in the present. This was an important point to make in the context of the ‘special rights’ critique of Indigenous specific programs (the notion that Indigenous specific service delivery was itself a case of ‘reverse racism’, as Hanson argued in her maiden speech to parliament.) If current disadvantage had its roots in the past, in colonisation and dispossession, then it was incumbent on the heirs and beneficiaries of those who had done the dispossessing to make amends. Then Democrat Leader John Coulter had formulated the relationship between Indigenous disadvantage and non-Indigenous responsibility in precisely this way in the debates on the *ATSIC Bill* in 1989:

> We are the inheritors of the advantages which have flowed from the acts of those who took this land from the Aboriginal and Torres Strait Islander people. That, I believe, places a very great responsibility upon us, not because we feel guilty but because we are the inheritors of an advantage....So while guilt is not appropriate, certainly the picking up of responsibility is.561

So this causal formulation established two things: it contested the widely held view that Indigenous peoples had only themselves to blame for present parlous living conditions, and secondly, it supported a claim for assistance from the government. But this recognition was made in the context of a recognition that it was not possible to achieve perfect reparation in contemporary circumstances.

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Christian reconciliation does not rely, however, on the satisfaction of all outstanding debts. Reconciliation is a process in which injustice is, as Volf puts it, both affirmed and transcended. Catholic and Reformed understandings of reconciliation asserted that this-worldly reparation for sin was not just desirable but required. But those acts of penance or reparation were in no way adequate to ‘purchase’ forgiveness. The impossibility of perfect reparation, the radical insufficiency of any human action to that which is received, makes this necessary. The suggestion that reconciliation produces a miraculous or divine transformation in human relations premised on the agency of forgiveness is linked to these tangled understandings of the why and the how of reconciliation. The theological supporters of Aboriginal reconciliation ought not to be too quick to accuse those who blur such fine distinctions of corrupting the theology, for the theology is itself already entangled in these tensions. Vertical and horizontal reconciliation can be considered separately, but there is a divine and sacred element, within the theology of reconciliation, to relations between persons: a sin against another believer is not just a sin against that person, but is a sin against the whole community of the faithful, and against God. Every horizontal sin is, in fact, a vertical sin as well. It is this ambiguity between earthly and divine reconciliation which enables the Australian reconciliation process to move or slip between ‘hard’ and ‘easy’ visions of reconciliation.

Historically, acts of penance became increasingly symbolic as the sacrament of confession became more and more private, to the point where the act of confessing was itself seen as a penance. Even in Catholic formulations of the working of penance, personal contrition combined with the grace of God to produce forgiveness, and it was possible to achieve reconciliation even without, in some cases, the performance of penance; Tentler, T, op cit, p16.
John Paul II offered an example of how the theological concept of reconciliation might play out into the political relationship between Indigenous and non-Indigenous peoples when he offered an apology to the Indigenous peoples of Oceania, and in particular to the Australian Aborigines, for Church complicity in governmental programs:

The past cannot be undone, but honest recognition of past injustices can lead to measures and attitudes which will help to rectify the damaging effects for both the indigenous community and the wider society. The Church expresses deep regret and asks forgiveness where her children have been or still are party to these wrongs. Aware of the shameful injustices done to indigenous peoples in Oceania, the Synod Fathers apologised unreservedly for the part played in these by members of the Church, especially where children were forcibly separated from their families. Governments are encouraged to pursue with still greater energy programs to improve the conditions and the standard of living of indigenous groups in the vital areas of health, education, employment and housing.  

This apology does not present, I would argue, a clear program of action for a secular politics because it does not, and cannot, adequately resolve the tension between horizontal and vertical understandings of reconciliation.  


564 Habel argues that separating reconciliation with God from reconciliation between groups is 'simplistic and ignores the fact that such a neat formulation separating these "two ways" in which God works is
Volf each struggle to identify what earthly justice might look like once transcended by an act of grace or forgiveness.

Volf acknowledges that the relation of 'first justice, then reconciliation' is impossible; 'justice is to some extent linked to particular groups and inevitably contested by rival groups. No peace is possible within the overarching framework of strict justice for the simple reason that strict justice is impossible.'565 He further argues that such an approach is not only conceptually impossible (injustice is always with us) but that it is 'at odds with the core Christian beliefs inscribed in the narrative of the life, death, and resurrection of Jesus Christ':

The Pauline version of the Christian faith—the same could be argued for the practice and teaching of Jesus—stands and falls with the idea that grace has priority over justice (grace, again, that does not negate justice but that affirms justice in the act of transcending it).

To understand that human relations are oriented primarily towards justice is forever to understand reconciliation as, at best, a principled compromise. Volf argues that the alternative is to place justice within an overarching framework of reconciliation:

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the placement of liberation within the overarching framework of reconciliation is crucial as well as the need to affirm and transcend justice in an act of grace. Grace, too, is a compromise of sorts, but not as a negative concession to my weakness or to your incalcitrance but as a gift to you with the hope of a reciprocal response given in the face of the impossibility of justice.\footnote{ibid. See also Volf, M, "Forgiveness, Reconciliation and Justice" in Helmick, R and Petersen, R (eds) *Forgiveness and Reconciliation*, pp38-45. Goldman sees no conflict between 'liberation' and reconciliation; 'nor do I accept that liberation is a prerequisite for reconciliation. I believe that the movement of reconciliation is tasted by the victim before liberation occurs. Through experiencing a small part of the unfathomable mystery of the reconciliation the person recognizes that their experience is sacred...it is this that stirs them to seek a sustained expression of liberation.' *op cit*, pp 16-17.}

Volf is at one with Sharp and Patton in his description of strict justice as impossible. Placing his discussion of reconciliation in the context of long-standing inter-group conflicts such as that which engulfed Christians and Moslems in the former Yugoslavia, Volf refers to the tendency of each group to construct divergent and irreconcilable narratives of oppression. Where there is no common vantage point from which one might describe one party as the oppressor and the other as victim, the pursuit of 'justice' can feed a spiral of violence from which there is no escape bar the destruction of one or the other protagonist. The transcendence of justice claims in what Volf describes as a theology of embrace is the alternative exit from such a situation. Volf points to the Pauline vision of a transformation or new creation as a model for inter-group relations. In doing so, he highlights a particularly potent aspect of the Australian reconciliation process; the desire for transcendence in a situation of seemingly intractable conflict.
But Volf equivocates, and by doing so, repeats and reveals the ambiguity of this process. His earlier formulation of the relationship between justice and forgiveness as an asymmetrical dialectic makes way for a reconciliation based on simultaneous forgetting and transformation. Volf argues that the final act of reconciliation or of embrace is forgetting:

> it is a 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.’

Not only named, but also forgotten, injustice ceases to divide groups once caught in bitter conflict. This potent image is not without its own difficulties. Volf’s suggestion that the act of forgiveness, as a prelude to reconciliation, is an affirmation of justice is in conflict with his suggestion that a common historical narrative between conflicting groups is

\footnote{Volf, M, *Exclusion and Embrace*, p131. He continues; ‘since no final redemption is possible without the redemption of the past, and since every attempt to redeem the past through reflection must fail because no theodicy can succeed, the final redemption is unthinkable without a certain kind of forgetting. Put starkly, the alternative is: either heaven or the memory of horror’; p135. My emphasis. Volf describes the will to embrace: ‘the will to embrace includes in itself the will to determine what is just and to name wrong as wrong. The will to embrace includes the will to rectify the wrongs that have been done, and it includes the will to rectify the relationships to correspond to justice. And yet, though an actual embrace requires attending to justice, it does not require the establishment of strict justice’; Volf, M, ‘Forgiveness, Reconciliation and Justice’, p43.}

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impossible. But an affirmation of justice, in the context of reconciliation, cannot be one-sided. To forgive one party for wrongs it does not accept as its own is to foster further conflict; one need only look to the politics of history in this country to see that a process of apology and forgiveness must first be premised upon a degree of agreement in regards to history. And what if, more fundamentally, the complaint made goes exactly to this point; to the political ‘unity’ of the colonial state? The sovereignty claim suggests that Indigenous Australians constitute politically organized and independent peoples with rights to land and self-government. It is an identity claim: the injustice of its denial goes to the failure to recognize the political identity of Indigenous peoples. To transcend that claim would be to forfeit a claim to identity. There would no longer be two parties but one. Volf’s suggestion that an ‘embrace’ between two parties would not dissolve the identity of either does not in this instance ring true. To transcend this particular injustice would be to transcend oneself.

Even if we accept that some agreement could be reached on the nature of the injustice suffered, how would we know how much justice is enough justice? Where does transcendence kick in and grievance cease? Volf argues that strict justice is conceptually impossible and contrary to Christian teaching, but that one must nevertheless seek as much justice as is possible in a given situation. But at what point should a person or group surrender their claims to justice for the sake of some greater good, such as reconciliation? Having subordinated justice to unity, the language of reconciliation does not mark any particular place at which the one should give way for the other. It does not
mark the point at which Indigenous peoples should give up their legitimate grievances in the interests of "getting on with the future" in a united Australia.

The relation between justice and forgiveness is not that of a dialectic but that of an aporia. Reconciliation does not provide the ready means by which to settle, at last, the question of justice between Indigenous and non-Indigenous peoples. Rather, the relation of forgiveness to justice is that of two irreconcilable but nevertheless indissociable imperatives. To forgive on condition of penance or reparation only makes sense (and yet does not make sense) in light of an understanding of forgiveness as a gift, freely given, of the unforgivable. The miraculous (or, in Derrida's terms, the impossible) haunts this language notwithstanding its supposed secularisation.

These problems are as evident in the popular discourses of Aboriginal reconciliation as they are in academic texts. For example, where restitution might be forever inadequate vertically, in the sense that it might, as John Paul II put it, never be enough to 'purchase' the gift of divine forgiveness, it does make sense to think of an approximate restitution in inter-personal relations.  

And as we have seen, the canon law, in the context of Christian penitential practices, did account for restitution in the relations between persons. Christian theology does not, however, provide an answer to this moral problem.

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568 John Paul II writes of 'satisfaction' as 'the final act which crowns the sacramental sign of penance'. Satisfaction is not, however, 'a price that one pays for the sin absolved and for the forgiveness obtained: no human price can match what is obtained, which is the fruit of Christ's precious blood.' Acts of satisfaction should therefore be 'simple and humble', symbolic of 'the personal commitment that the Christian has made to God in the sacrament to begin a new life'; 'Apostolic Exhortation on Reconciliation and Penance: Origin and Meaning of the Document', December 2, 1984, p29, www.cin.org/cin
Both answers seem legitimate. In fact the question itself and the answers provided are not outside the language of reconciliation, but are part of that language. The conservative suggestion that reconciliation implies an easy forgiveness, that it *demands* forgiveness, is not to be thought of as an illegitimate corruption of Christian theology. Rather, that view is a product of the language games which go to make up the theology of reconciliation. It is not to be put to one side, and dismissed, but is to be taken up with the language of reconciliation itself.

There is no sense in which an institutionalised process of political reconciliation can itself reconcile the contrary impulses of justice and forgiveness. The reconciliation of justice and forgiveness is, in theological terms, an act of divine transcendence. Christian understandings of horizontal reconciliation, between former enemies, rely on and are ultimately incidental to the primary Christian understanding of reconciliation as a relation between the individual and God. To ‘secularise’ and institutionalise the concept of reconciliation is to adopt a notion of horizontal reconciliation outside of that vertical relationship between man and God in which horizontal reconciliation is possible, and indeed, intelligible. Unless forgiveness arrives unsolicited, pure and as an experience of the ‘impossible’, then a secular reconciliation process is doomed from the outset to repeat but not resolve the tension evident in Christian theology between forgiveness and justice. In a self-consciously secular politics these discourses of reconciliation could refer to apology, justice and public ritual but, cut off from God, not, for an end-point or ‘closure’, to miracles. Reconciliation was a never to be completed, or if institutionally completed, then substantially incomplete, process. The unity promised never arrived, and perhaps
never could arrive, at least not by these means. The reconciliation process, whilst
enjoining Indigenous and non-Indigenous Australians to unity, compromise (and
forgetting?) may have cemented in the language of Australian politics two subject
positions as distinct and permanent political constituencies.

Justice and Difference

Against (and with) the idea of justice as equality or uniformity of treatment is the notion
of justice as the recognition of difference, of measuring and cutting justice to the
particularity of the other so as not to be unjust by subjecting what must always remain
unique to the rigidity of formalised law. This notion informs, after the ideas of
reparation and of distribution, a third intuition regarding the nature of the justice owed in
a colonial context. More than simply compensation for past wrongs, the return of lands
or a commitment to reducing Indigenous disadvantage, justice must also entail respect for
the colonised party as the colonised party. This understanding of justice is supported by
the belief that colonisation, over and above any particular act or event that occurred in the
process of colonisation, was itself a violation of the rights of Indigenous peoples. In
particular, the legal doctrine of terra nullius was a particularly harsh form of non-

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569 The aporia within justice ‘implies on the one hand a respect for universality, and, on the other hand for
singularity- you cannot be just for everyone and for every single one'; Derrida, J, ‘A Discussion with
570 Patton, P, Justice and Difference, p84.
recognition which, although now abandoned in relation to property rights, still animates Australian thinking on sovereignty. 571

These three concepts of justice do not, however, fit together in any neat pattern, but produce conflicting and apparently paradoxical responses to particular questions of justice. 572 Consider, for example, the range of responses to the Mabo judgment. Conservatives pointed to native title as a source of division in Australian society; as a legal right available only to Indigenous Australians it threatened the equality and hence the unity of Australian citizens. That claim was met by the argument that the judgment established racial equality before the law: it extended the protection of the common law to the interests held in land by Indigenous as well as non-Indigenous peoples. 573 But this response did not displace the deep commitment within liberal political theory to a principle of 'sameness of identity among members of the political community', a principle evident in works such as Rawls' Theory of Justice as well as in Howard government rhetoric on Indigenous affairs. 574

571 See, for example, Asch, M, 'From Calder to Van der Peet' in Havemann, P, op cit, p439-441
572 See also Nancy Fraser's work on the 'redistribution-recognition dilemma.' Fraser points to the growing tendency to pit distributivist models of justice, based on a politics of equality or identity amongst citizens, against the politics of recognition or of difference. Fraser notes the growing salience of claims for the recognition of group difference at the expense of claims for social equality. This distinction is, Fraser argues, a false antithesis; 'I assume that justice today requires both redistribution and recognition.' But economic remedies generally involve the diminution of group difference, especially in circumstances where group identity is itself a function of economic marginalisation; 'the upshot is that the politics of recognition and the politics of redistribution often appear to have mutually contradictory aims'; Justice Interruptus, pp 12-15. See also Austin-Broos, 'Silent in the Face of the Aranda', p116.
573 Patton, P, Justice as Difference, p85.
574 ibid, p88. See also Havemann, op cit, p472.
Recognition of difference cuts against the basic liberal commitment to the equality or identity of the citizens. But this is not a simple clash of alien ideas, but a tension between identity and dignity mediated by a shared commitment to human equality.\textsuperscript{575} The movement from hierarchically ordered societies to an appreciation of a universal human dignity was part of the democratisation of the old feudal regimes. The emphasis on human dignity led to the now universal acceptance of an equal and undifferentiated citizenship. But a second movement, related to the modern concept of identity, has given rise to the politics of difference. The recognition of human dignity supposes a human equality sometimes understood as an affront to \textit{authenticity}, and hence to identity.\textsuperscript{576} The equal recognition of human dignity requires, paradoxically, the recognition of difference. As Taylor puts it;

\textsuperscript{575}Taylor, C, \textit{Multiculturalism and the Politics of Recognition}, p28. Taylor describes a ‘displacement of the moral accent’ in the idea that each person is endowed with a moral sense, or an intuitive understanding of right and wrong. The displacement Taylor describes is the tendency to consider this ‘voice within’ not as a guide to morality but to personal authenticity and identity: ‘On the original view, the inner voice was important because it tells us what the right thing to do is. Being in touch with our moral feelings matters here, as a means to the end of acting rightly....the displacement of the moral accent comes about when being in touch with our feelings takes on independent and crucial moral significance. It comes to be something we have to attain if we are to be true and full human beings’; \textit{ibid}, p29. See also Tamir, Y, \textit{Liberal Nationalism}: ‘the emergence of the nation-state at the end of the eighteenth century was marked by the emergence of public education, whose main goal was to galvanize all citizens into one homogenized nation. The spread of the notion of universal citizenship introduced a new conception of equality...this change prepared the ground for the emergence of state neutrality...newly empowered individuals demanded that their rights, especially their right to retain their unique culture, be respected. These changes in turn prepared the ground for the emergence of multiculturalism and the revival of separate ethnic-national education’; pxvii.

the politics of difference grows out of the politics of universal dignity through one of those shifts with which we are long familiar, where a new understanding of the human social condition imparts a radically new meaning to an old principle....the understanding of identity as formed in interchange, and as possibly so malformed, introduces a new form of second-class status into our purview.\(^{577}\)

Taylor links the conflict between the politics of equal dignity and the politics of difference to this tangled intellectual history. He settles on a presumption of the equal worth of all cultures as the bedrock to a politics of difference which does not lapse into what he describes as a form of neo-nietzschean condescension, or verges towards cultural imperialism.\(^{578}\) Taylor’s liberal version of the politics of recognition, based upon a presumption of equality between cultures, stands in contrast to Derrida’s more radical orientation towards the other as other. As Caputo explains, ‘deconstruction is the affirmation of the coming of the other’\(^ {579}\):

\(^{577}\) Taylor, C, *op cit*, p41. Taylor relates the upsurge in the ‘politics of recognition’ to a Hegelian understanding of human identity as dialogically, rather than monologically, constructed. ‘we become full human agents, capable of understanding ourselves, and hence of defining our identity through our acquisition of rich human languages of expression...we learn these modes of expression through exchanges with others.’ To withhold recognition of the other, or to recognise the other in a manner alien to her, is to be unjust. Taylor, *op cit*, pp25-32. See also Nicholls, A ‘The Secularization of Revelation from Plato to Freud’ *Contretemps*, 1. September 2000. See also Smith on separatist pluralism and universalist integration, Smith, R, *Civic Ideals: Conflicting Visions of Citizenship in US History*, p474.

\(^{578}\) Taylor, *op cit*, p73. See also Volf, M, *Exclusion and Embrace*, p204.

the work of deconstruction is set in motion, engaged only by a pledge of responsibility, indeed of unlimited responsibility...For Derrida, deconstruction is set in motion by something that calls upon and addresses us, overtakes us (sur-prises) and even overwhelms us, to which we must respond, and so be responsive and responsible. Endlessly.  

Justice is irreducible to the order of law and right, but is unthinkable without law and right. It "solicits us from afar":

justice does not exist, is nothing present, no thing, is not found somewhere either here, in present actuality, nor up ahead as a foreseeable ideal, a future-present. Rather, there is justice, which means: justice solicits us from afar, from the future, from and as a future always structurally to come, calls come to us, preventing the walls of the present from enclosing us in the possible.  

It is this call, or this responsibility to the other in the name of justice, that renders all law deconstructible.  

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581 ibid, 135.
582 Derrida: "the law as such can be deconstructed and has to be deconstructed. That is the condition of historicity, revolution, morals, ethics and progress. But justice is not the law. Justice is what gives us the impulse, the drive, or the movement to improve the law, that is, to deconstruct the law. Without a call for
At least one conclusion follows from this: the claim that justice requires the recognition of Indigenous sovereignty did not stand on the principles of reparative justice alone. A second kind of reasoning, or another concept of justice, also animates the sovereignty claim. This stronger concept of justice as the recognition of difference pointed towards the recognition of indigeneity as a source of legal and political rights over and above any claim to reparation stemming from injustices long since past. The counter-factual difficulties of imagining 'what if?' were subverted by a claim to justice that demanded to be answered now, for the sake of the present.

Unity/Treaty/Nation

Sharp points to the interminable debates on justice in New Zealand in the 1980's as a product of cultural difference between the Maori and the Pakeha. Those debates related to the moral sovereignty of the protagonists, the ability to say what was just as between themselves. Sharp draws our attention to the way in which the content of justice depends on a set of prior evaluations regarding freedom, inequality, obligations and so on. In a condition of bi-culturalism, no agreement could be found on these prior evaluations, and as a consequence, there could be no agreement on what justice for the justice we would not have any interest in deconstructing the law.' Derrida, J, Deconstruction in a Nutshell: a Conversation with Jacques Derrida, p16.

583 Sharp, A, op cit, p1.
Maori entailed. Justice as reparation and justice as distribution were not sufficiently precise concepts; they left open too many questions regarding the value of and the source of entitlement to goods to provide anyone with a definitive answer to the question posed. As a result, Sharp points to the development of a form of legalistic argument based on sovereignty. The possession of sovereignty entailed the right to define the content of legal justice and to override all other concepts of justice. The problem of the content of justice between two political groups was rhetorically circumvented, but injustice remained:

their conception of the morality that ought to obtain between the two peoples was a legalistic one, and one largely derived from contemplating the form of the modern state. And it came to this: that each contender proposed to visit their own conception of justice on the other and thus still more systematically than before to render injustice to them.

Maori and Pakeha reached for sovereignty as the means to claim for themselves the right to say what was just as between colonised and coloniser. As an observation regarding debates on reparation and redistribution, on the satisfaction of past wrongs and on the equitable distribution of material goods, this seems to be correct, and applicable to the Australian reconciliation process and to the politics of Indigenous affairs here in general.

ibs, pp23-23; the cultures did not completely share the same views as to the substantive rules of law or morals, they differed on the claims of need and had different ideas as to who deserved what. There was too much vagueness, too much room for disagreement and misunderstanding and all the ills that travelled in their train....It was a form of disagreement that could lead to a politics of competing and starkly opposed epistemologies; p32. Jeremy Webber also characterises the move to sovereignty as a mark of frustration, rather than as a claim to justice in its own right; Webber, J, Reimagining Canada, p17.
But as a general point regarding the nature of justice this observation obscures another concept of justice invoked by the very movement towards sovereignty. This is justice as the strong form of recognition identified above; recognition of indigeneity as the source of legal and political rights, of specifically Indigenous rights. The move to sovereignty may well be the product of an endemic frustration amongst Aboriginal peoples regarding injustice both present and past, and with their inability to secure agreement on what justice entails as between themselves and non-Aboriginal Australia. But it is just as plausible to suggest that the move to sovereignty is not merely the means by which to claim the right to define the content of justice, but might be an appeal to a form of justice in and of itself; the claim to be treated on equal terms to the Commonwealth of Australia, to be recognised as politically organised peoples capable of treating with other politically organised peoples. And it is to this point that Sharp returns. The way out of the dilemma described above was not to argue that the two cultures were united by a shared concept of justice; ‘it was that the contents of justice should be thought of as constructed by way of formal contract or agreement and enforced by authority.’ Sharp described this as a ‘thinner’ concept of justice and dates its origins to ‘ancient times’; in the absence of widespread agreement on the depth and detail of justice a thinner conception of justice can be constructed by two or more parties. This justice can now be enforced as justice must be if it is to be justice and not just an ideal of good conduct. It can be enforced because now justice consists in giving people their rights specified in contract rather than their rights according to the disputed conceptions of what justice is’; p32.

585 Sharp, A, op cit, p1.
586 Sharp, A, op cit, p32. Sharp described this as a ‘thinner’ concept of justice and dates its origins to ‘ancient times’; in the absence of widespread agreement on the depth and detail of justice a thinner conception of justice can be constructed by two or more parties. This justice can now be enforced as justice must be if it is to be justice and not just an ideal of good conduct. It can be enforced because now justice consists in giving people their rights specified in contract rather than their rights according to the disputed conceptions of what justice is’; p32.
The Australian reconciliation process also turned towards discussion of negotiated agreements as a means to spell out, definitively, the rights of Indigenous peoples vis a vis the various Australian state and federal governments. There was a degree of pragmatism here. A treaty, compact or framework agreement would be the vehicle for the recognition of particular Indigenous rights. But the debate operated on a higher level as well. The conclusion of a treaty or treaties would not merely recognise particular Indigenous rights vis a vis Australian governments, it would recognise the capacity of Indigenous peoples to enter into agreements of that nature. The recognition of Indigenous peoples as sovereign peoples would be a form of justice in its own right, over and above the justice of particular reparative or distributivist measures included in the text.

Treaty politics is a tradition of talking about just relationships between Indigenous and non-Indigenous peoples which has its own history, predating reconciliation, but which nevertheless made sense in terms of reconciliation, as a means of putting the past to rest. Reconciliation has been characterised by Michelle Grattan as a response to the

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587 Patton, P, Constitutional Paradoxes, p3.

588 See Rowse’s account of treaty politics in the 1970’s and 80’s in Obliged to be Difficult, pp174-187 and The Treaty Debate 1979–1983 and the Continuing Problem of Federalism, AIATSIS Seminar Paper, http://www.aiatsis.gov.au/rsrch/smnrs/papers/rowse.htm Elliot Johnston QC provides some discussion of the treaty debate in the late 1970’s re: National Aboriginal Congress; Royal Commission into Aboriginal Deaths in Custody, vol II, p361. Rowley also notes that a suggestion from a Catholic missionary at a 1929 conference convened by Prime Minister Stanley Bruce that there be a ‘state within a state governed by the natives’ was discussed and withdrawn. In 1929 the Communist Party of Australia advocated self-determination including the right to secede; Rowley, C.D. Aboriginal Policy and Practice, vol 1, p271. More generally, Reynolds points out that the justice of the acquisition of jurisdiction over both land and peoples was a much debated topic long before the emergence of the politics of indigeneity in the 1970’s; see, for example, Dispossession: Black Australians and White Invaders, pp3-16, 78. Griffiths also points to earlier debates, such as that in the 1837 House of Commons Select Committee on Aborigines in the British
failure of treaty politics in the late eighties, as an opening from a deadlock pitting Labor and Indigenous groups against the Coalition's critique of 'black parliaments' and a nation divided. However, as discussed in chapter three, the relationship between treaty-talk and the official reconciliation process is somewhat more complex and interesting. Just as reconciliation discourses demonstrated a 'polyvalent' capacity to accommodate the language of social justice, those discourses also included a kind of subterranean treaty politics by another name.

The treaty debate, although generally absent from the pages of the 'quality' press, had not disappeared from view completely, and had only been obscured by the focus on reconciliation in the mainstream media and by the major parties. The process of formulating a document or documents of reconciliation gave many people the opportunity to engage in a treaty politics of another name. Participants in an Indigenous leaders forum convened by ATSIC in September 1999, *Focus 2000 and Beyond*, recommended that Indigenous peoples continue to assert that they remained sovereign. The forum equated self-determination, defined as the right of a people to freely determine their political status and to pursue their economic, social and cultural development, with

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Settlements: 'it might be assumed that the native inhabitants of any land have an incontrovertible right to their own soil; a plain and sacred right, however, which seems not to have been understood. Europeans have entered their borders uninvited and when there, have not only acted as if they were undoubted lords of the soil, but have punished the natives as aggressors, if they have even evinced a disposition to live in their own country'; cited in Griffiths, M, *op cit*, p25. Peter Read's account of the split in the Federal Council for the Advancement of Aborigines and Torres Strait Islander's throws some light on the radicalisation of indigenous affairs in Australia since the 1970's; 'Cheeky, Insolent and Anti-White', *Australian Journal of History and Politics*, 1990, vol 23, no1, pp73-83.

sovereignty. In turn, they understood the reconciliation process to be ‘a platform for progressing negotiations over our issues.’ Whilst some participants expressed concern that the reconciliation process was a ‘road to nowhere’, the forum resolved that Indigenous peoples ‘need to use the CAR process.’ Reconciliation was ‘the best chance we have…A window of opportunity giving rise to the development of an agreement about a framework to identify and negotiate a whole host of issues over time.’ Reconciliation, whilst something to be approached pragmatically, was not, in the forum’s view, necessarily opposed to sovereignty.

Although it is extremely difficult to achieve (as witnessed recently in East Timor) there is still a need for Aboriginal and Torres Strait Islanders to pursue their sovereignty agenda. Some participants considered that true reconciliation could not be achieved without recognition of our sovereignty and some form of treaty.

The forum did not accept that the recognition of Indigenous sovereignty necessarily implied secession from the Commonwealth.

The CAR could not keep faith with Indigenous organisations if it worked to keep these issues off the agenda permanently. It held open, in all its submissions to government, the

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591 ibid, p22.
592 ibid, p20.
right of Indigenous peoples to assert their sovereign rights. But the Council’s ability to take a position on the issues of Indigenous sovereignty and the possibility of entering into a treaty was limited. Structural factors were important. The CAR was a supposedly bipartisan body, funded by and appointed by the government. It was also a body composed of both Indigenous and non-Indigenous persons. The chances of arriving at a consensus view on these issues were small from the outset. The CAR, although engaged in the process of producing documents of reconciliation, did not take up the language of sovereignty as its own. Ian Viner, former deputy chair of the CAR revealed in May 2000 that the Council had discussed the issue of sovereignty but ‘would not go so far as to call (the reconciliation documents) a treaty.’

The CAR took a more assertive role in the treaty debate in the lead up to and the aftermath of Corroboree 2000 and the Bridge Walk. The election of Geoff Clark (deputy Chair of the APG) to the Chair of ATSIC had already added a more radical voice to the Council. Clark claimed that the size of the public turnout for the Bridge Walk gave

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593 Going Forward: Social Justice for the First Australians recommended that the government produce a concise statement affirming that Aboriginal and Torres Strait Islander peoples ‘are the first peoples of Australia’ and that ‘the wider community recognise that ATSI peoples, by working within the existing national structures, do not abandon their views on or a right to advocate separate indigenous sovereignty.’ CAR, Going Forward: Social Justice for the First Australians, www.austlii.edu.au/au/orgs/car/going_forward/3.html

594 ibid.

595 Former Keating government minister Gary Johns argued that the reconciliation process was the product of the failure of treaty politics, but nevertheless accused the CAR of continuing this agenda: ‘the Reconciliation Council is also keeping the treaty agenda alive with its discussion of a document of reconciliation, and its desire to have indigenous customary law recognised.’ Johns G ‘Reconciliation: Read the Fine Print’, Quadrant, November 1999, p16.
the Prime Minister a 'mandate' to begin negotiating a treaty.\textsuperscript{596} A treaty would recognise that Australia was composed of two nations: 'We are here. Stop the denial....What are we if we're not separate peoples.'\textsuperscript{597} Michael Mansell, also of the APG, said that 'it is two nations. It always has been.' Mansell had now moved some distance from his initial response to the reconciliation process as mutually exclusive of sovereignty and self-determination. Now he posited an inherent and perhaps teleological link between the process of reconciliation and a treaty: 'A treaty, or something like a treaty, has to be the end product of the reconciliation process. Otherwise there is no substance to it.'\textsuperscript{598}

Mansell and Clark suggested said that the word 'treaty' was not essential to an agreement. Said Clark, 'call it a marriage certificate. Call it what you like.' A treaty, compact or agreement was not, however, an end-point, but a new beginning. As Clark made clear in his speech to Corroboree 2000, a treaty would not be a once and for all solution to the problem of justice for Indigenous peoples, but would be the framework in which those questions could be asked anew by future generations of Indigenous and non-Indigenous people: 'true reconciliation means forging a new set of ground rules. We need a new equation, a change in the relationship. A change based on the distinct rights of

\textsuperscript{596} That reading of the participants intentions is highly arguable, given that we have already seen the wide variety of ways in which people who have supported reconciliation have understood the nature of that concept.

\textsuperscript{597} 'Stand-off looms in push for treaty'; \textit{Sydney Morning Herald}, 29 May 2000, p.8. See also 'A message from 'white nobodies' comes out of the blue'; 'Tears and prayers as a fire burns for justice'; 'Sorry PM, you flunked the test'; 'Deane's history lesson: the past is not another country' \textit{Sydney Morning Herald}, 29 May 2000, p.8.

\textsuperscript{598} 'Stand-off looms in push for treaty', \textit{Sydney Morning Herald}, 29 May 2000, p.8
Indigenous peoples. The APG was not alone in its enthusiasm for a treaty. Mick Dodson echoed the call for a treaty in his key-note address to Corroboree 2000. And the previously more subdued Jackie Huggins, who had co-authored the Draft Declaration for Reconciliation without once referring to a treaty, now claimed that a treaty was 'the next logical step' for reconciliation and a 'winnable proposition' for the CAR. Ian Viner was 'fascinated' and 'thrilled' that the treaty debate had re-emerged in the wake of the People's Walk.

These comments may have reflected little more than the optimism of the moment. At best they could be seen as part of a longer term effort to raise public awareness of the treaty proposal itself (although, given that twenty years of agitation had produced only sparing results, it is difficult to imagine what 'long-term' means in this context.) There was no prospect that the Bridge Walk would itself bring the government to the negotiating table. A mass demonstration of public support for Aboriginal reconciliation did not alter Howard's thinking on the issue of a treaty. His oft-noted obstinacy on this issue could more charitably be described as consistency. As Opposition leader in April 1989 Howard had attacked the Labor government's Aboriginal affairs policy as divisive:

601 Viner: 'I think it's fascinating that the treaty word has risen again, because when I was on the council, we discussed it ... but the council would not go so far as to call (its documents) a treaty. So it was a real thrill to see it in the declaration.' Sydney Morning Herald June 3, 2000 'The Other Dirty Word' p35. See also Dodson, P, Until the Chains are Broken: Lingiari Lecture, 1999 and Reconciliation at the Crossroads, address to the National Press Club, April 1996.
If the government wants to divide Australian against Australian, if it wants to create a black nation within the Australian nation, it should go ahead with its Aboriginal and Torres Strait Island Commission and its treaty. In the process, it will be doing a monumental disservice to the Australian community.  

In 1998 he formulated his opposition to a treaty as a sincere commitment to the unity of the Australian nation: 'I don't like the idea of a treaty because it implies that we are two nations. We are not. We are one nation. We are all Australians before anything else, one indivisible nation.' The Bridge Walk did not alter Howard's commitment to the indivisibility of the nation and to an idea of reconciliation as a practical endeavour pursued within the context of One Australia. Insisting that a treaty referred only to an agreement between sovereign nation-states, Howard argued that an undivided nation could not make a treaty with itself: 'I mean to talk about one part of Australia making a

602 Courier Mail June 1, 2000, p15 ‘Howard reads the mood on treaty’ Peter Charlton.

603 Howard indicated prior to the release of the Declaration that the government would not support a treaty; it would support 'a document that recognizes the prior occupation of the country by indigenous people, recognizing their place as part of the Australian community and their right to preserve their culture.' Such a document would need to be consistent with ‘the notion of one undivided united Australian community where our first and foremost allegiance is to Australia’; ‘Signs of a Softer Howard’ Sydney Morning Herald, October 13, 1998, p13. Philip Ruddock, now the Minister Assisting the Prime Minister for Reconciliation, said that the word 'treaty' was not necessarily an obstacle for the government. The government only objected to the use of the word treaty where it implied the existence of two nations. See also Windschuttle, K, ‘Why there should be no Aboriginal treaty’, Quadrant, 45 (10) October 2001 : 15-24; ‘many white people today, especially those who last year walked across bridges for reconciliation, no doubt see a treaty as some kind of welfare measure or as a nice symbolic gesture. It deserves to be recognized, rather, as a device that, in one stroke, would establish Aborigines as a politically separate race
treaty with another part is to accept that we are in effect two nations.' Any treaty process would itself be divisive insofar as it would necessarily include debates about land ownership, regional governance and other contentious issues. Echoing McMahon in 1972, Howard argued that 'self determination' would lead to separate development. Howard also rejected references in the Declaration to self-determination, a formal government apology to the Stolen Generations and the recognition of customary law.

Much of what was said about Aboriginal affairs and the Australian nation by the Howard government in the late nineties had already been said by Coalition parliamentarians in the mid to late eighties. But there is a deeper continuity here as well. The Howard government understood the nation, and the identity of the people within it, in a manner identified by James Tully as the dominant assumption of modern constitutionalism: the image of the nation as homogenous and uniform. This image of the nation is an ‘empire of uniformity’ wherein the people are considered as culturally indifferent members of one society who aim to set up a constitutional association with a single locus of government. These assumptions have long marked the institutional relationship of people.' A treaty would also pose 'long-term risks to Australian sovereignty'; p24. See also Kymlicka, W, Politics in the Vernacular, p33.

604 Courier Mail May 30, 2000, p4 'PM rejects calls for native treaty' Dennis Atkins.
605 Courier Mail May 30, 2000, p4 'PM rejects calls for native treaty' Dennis Atkins.
606 See also Marr, D on the thematic links between Howard and Hanson; The High Price of Heaven, p45.
607 Tully, J, Strange Multiplicity, p58. William Connolly makes a related point: western political thought has traditionally privileged relations of identity over relations of difference. Connolly makes the point, however, that ‘identity requires difference to be, and it converts difference into otherness in order to secure its own self-certainty. Identity is thus a slippery, insecure experience, dependant on its ability to define difference and vulnerable to the tendency of entities it would so defi ne to counter, resist, overturn, or subvert definitions applied to them'; Identity/Difference: Democratic Negotiations of Political Paradox,
between Indigenous and non-Indigenous peoples in Australia. The continuity in
Howard’s rhetoric on national unity and Indigenous sovereignty recalls the words of his
Liberal and Labor predecessors.608 Paul Hasluck, then Minister for the Territories in the
Menzies government and later Governor-General, had said in 1955: ‘We do not want a
society in Australia in which one group of people enjoy one set of privileges and another
group enjoy another set of privileges.’609 Equality was to be achieved by the assimilation
of Indigenous peoples and migrants to the dominant Anglo-Saxon culture. The
government would work on the social body to create a unity that was at present lacking.
The irony, of course, that the policy of assimilation repeatedly authorised the
suspension of civil and political rights in the name of creating an homogenous equality
amongst the citizenry.610

p64. Connolly expands this argument in relation to liberal understandings of democracy as grounded in a
pre-existent unity marked ideally by race: Connolly: ‘a nation is something that has been or will be but
never is at any actually existing moment….Its promise as future unity is thus defined less by positive
exemplification than by marking a set of constituencies who deviate from it in need of assimilation,
correction, punishment, or elimination’; Why I am not a Secularist, p85.
608 Where Hasluck said in 1963, ‘the whole tendency in Australia is to eliminate laws that apply especially
to Aboriginal people’, ALP leader H.V. Evatt had said in 1957 that ‘the only thing to be done with the
Australian Aborigines, full-blood or otherwise, is to give them the benefit of the same laws as apply to any
also cites Kim Beazley Snr; ‘the deepest aspiration of the native women and those of mixed blood I have
met, has been to have a decent home, to see their adolescent daughters given some training in domestic
services and to see their children growing up in an environment that will enable them to lead a civilized
life’; p73. The 1951 Native Affairs Conference (convened by Hasluck) had defined assimilation as meaning
that ‘in the course of time it is expected that all persons of aboriginal blood or mixed bl.ood in Australia,
will live like white Australians do. The acceptance of this policy governs all aspects of native affairs
administration’ cited in Griffiths, M, op cit, p74.
Former Liberal Aboriginal Affairs Minister Peter Howson wrote an opinion piece in the *Sydney Morning Herald* in the lead up to Corroboree 2000 in which he suggested that the majority of Australians were opposed to apologising to Indigenous peoples. He further asked, rhetorically, ‘what is more important, a job or an apology?’ He also attacked the general direction of government policy in Indigenous affairs: ‘the granting of land rights to some Aborigines...has created cultural and economic cul-de-sacs....We should be encouraging the movement out of traditional communities.’ Some Indigenous persons had developed a reconciliation as treaty position. Howson offered reconciliation as assimilation:

Reconciliation is in fact proceeding naturally over the course of time. Surely the marriage (de facto or de jure) of nearly two-thirds of indigenous adults to non-indigenous spouses, and with more than seventy percent living in urban communities and professing Christianity, is evidence of that process.611

Rowse describes Hasluck as the prophet of this vision of an ‘affluent, classless and monocultural society.’ He notes, however, that assimilation policy ‘signifies a doctrine of

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611 Howson, P, ‘Why there should be no apology’ *Sydney Morning Herald*, 10 May 2000 p.17. Then Australian Democrats Leader John Coulter had pointed to this element of Coalition Aboriginal affairs policy in the debates on ATSIC in the late eighties: ‘Quite clearly the Opposition, from its remarks, does not share those views. It does not understand the very point that we are trying to make. The Opposition’s view of reconciliation is one in which Aboriginal and Torres Strait Islanders integrate totally in the mainstream culture. If one could invent a new and useful word, to be used in the same way as we use other words, such as ‘sexist’ and ‘racist’, it would be ‘culturist’. The Opposition’s attitude is ‘culturist’. It accepts
nationhood better than it defines a distinct and internally coherent practice of government.\textsuperscript{612}

The policy was ambiguous even in departure. Assimilation made way for ‘integration’ and an acknowledgment of the right of Indigenous peoples to retain their cultures if they so wished.\textsuperscript{613} Prime Minister McMahon’s 1972 Australia Day speech nevertheless included the familiar nationalist refrain:

\begin{quote}
The government’s aim is to have one Australian society in which all Australians, including Aboriginal Australians, will have equal rights, responsibilities and opportunities....The thought of separate development of Aborigines as a long-term aim is completely alien to the government’s objectives...\textsuperscript{614}
\end{quote}

This ideology of equality persists in Howard government rhetoric and in Australian political discourse more generally despite the abandonment of assimilation as government policy. In 1998, recalling Hasluck in 1955, and Hanson in 1996, Howard said that ‘I cannot accept ... the principle that one group of Australians should be given

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\textsuperscript{612} White Flour, White Power, p107. Rowse also argues that McMahon rejected assimilation without providing any clear alternative framework; p204.

\textsuperscript{613} On ‘integration’, see Rowse, T, Obliged to be Difficult, pp24, 27

rights and privileges that are not available to others. It is striking that Howard’s expression repeats, almost verbatim, Hasluck’s 1955 speech.

Whereas the Coalition saw a unified Australia as one in which Indigenous and non-Indigenous did not exist in anything but a rhetorical sense, the CAR and most advocates of a treaty saw a united Australia as being one in which the relationship between the constituent parts of the nation was a just and harmonious one. Advocates of a treaty did not in general assume, as the government did, that reconciliation was at odds with indigeneity as a source of political rights. The CAR, despite its wariness of and its dalliances with the language of sovereignty, maintained that Indigenous peoples had not surrendered their right to argue that they were and remain sovereign. It also noted that Aboriginal and Torres Strait Islander peoples claimed rights stemming from their status as citizens of the Commonwealth as well as from their indigeneity.

Some advocates of Indigenous sovereignty assumed that reconciliation promised a future unity, but one which was not at present complete. Fred Chaney argued that ‘the task of reconciliation is more fundamental than achieving more equal social outcomes for Aborigines. There is a deeper issue that so far we have all been unwilling to face....long term reconciliation means carrying out that debate with a common position, a common acceptance of the legal and moral basis on which we live together and would live and

615 Howard, J, *The Australian*, 16 April 1998; cited in Bennett, S, *White Politics and Black Australians*, pl4. In New Zealand, Sharp has pointed to a ‘a powerful and pervasive public (Pakeha) ideology of equality’ mobilized to deny Maori claims to equalizing treatment. Current inequalities were seen a being justified in terms of work ethics, laziness, drugs, bad parenting, bitterness about the past; Sharp, A, *op cit*, p194.
work together in the future." There was a lack or a stain that had to be dealt with first, the historical fact of colonisation without consent, before Indigenous and non-Indigenous could be said to be reconciled. Aden Ridgeway, for example, rejected the Prime Minister's assertion that a treaty would be in itself divisive: 'People need to understand that division already exists and any formal agreement is about bringing unity and bringing about the co-existence and harmony that's completely absent.'

Reconciliation was not, in this schema, the dissolution of difference, but the means by which difference could be managed, in both a structural or substantive sense and in an attitudinal sense. The relationship between Indigenous and non-Indigenous was not to be seen as a competitive or mutually exclusive one, but rather, as one potentially characterised by justice and harmony. In these formulations a reconciled nation was one in which unity was characterised by just relationships between constituent parts of the political community. Indigenous and non-Indigenous remained separate, in the sense that each was a particular political constituency, perhaps with differentiated rights and autonomous political institutions. But the historical sources of division between these two constituencies had been accounted for. In this sense, reconciliation was a peace or harmony amongst different parts of a nation, rather than the reduction of all citizens to a single, liberal individualism in which all, paradoxically, are the same. Mick Dodson, for

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617 The Australian May 30, 2000, p 1 'No treaty: PM rejects black call'.
618 Wenten Rubuntja, a member of the first Council, describes reconciliation as 'recognising differences in the people, the law and cultural aspects so that we can all work together in harmony to achieve a common goal.' Fellow Council member Belza Lowah saw reconciliation as being 'about agreeing and resolving this
example, has argued that Indigenous peoples possess two citizenships, one in relation to the Commonwealth, the second in relation to their Indigenous nations. For Dodson, the latter is primary.619

The treaty proposal appeals to a strong intuition of justice as the recognition of difference as well as to other notions of justice as reparation. Particular measures included in the text would conceivably deal with matters of distributive justice. The proposal is certainly appealing. It promises to account for past injustices, remedy seemingly intractable socio-economic disadvantage, and to recognise and manage cultural and political difference.

But Pocock sounds a note of caution. Treaty making is no selfless business. The ascription of federative or treaty making capacity to the Maori, for example, implied a capacity to alienate property:

the Crown was interested in ascribing to Maori a capacity to hold property and enter into treaties, in order to acquire sovereignty over the processes of purchase and settlement, over which it did not wish the settlement companies to acquire an authority preceding its own.620

619 Dodson, M, Aboriginal and Torres Strait Islander People and Citizenship, Address to Conference, University of New South Wales, 20 August 1993; Dodson framed the issue as 'how to support, within one geographic area or one political entity, different peoples and their different interests and institutions.'

An analogous comment could be made in relation to the Australian Native Title regime. Having recognised the existence of native title in principle, the operation of the *Native Title Act* operates to effect an extinguishment in fact, legitimising (again) the dispossession of those Indigenous peoples whose native title claims are unsuccessful.\(^{621}\)

A further analogy extends to the Australian treaty proposal. A treaty between Indigenous and non-Indigenous peoples in Australia, if it were to be negotiated and accepted, will not be offered without condition of reciprocal benefit for the Commonwealth. More than merely recognising the existence of autonomous Indigenous political communities, treaty making promises to legitimise the Commonwealth's occupation of parts of the Australian continent. For example, Nugget Coombs, writing in 1979, considered that the treaty proposal would 'finally add some colour of right to our occupation of this land.'\(^{622}\)

In 1987 Labor MHR Warren Snowdon quoted Xavier Herbert in his address in reply to the Governor-General's opening of parliament: 'until we give back to the black man just a bit of the land that was his...we will remain what we have always been so far, a people without integrity, not a nation but a community of thieves.'\(^{623}\)

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\(^{621}\) For example, Richard Bartlett argues that the National Native Title Tribunal has 'developed a philosophy of decision-making that favours certainty and development, and that is in the interests of non-Aboriginal parties.' The High Court in *Mabo* and *Wik* went some way to establishing equality before the law, but 'the Native Title Act has put non-Aboriginal interests to the fore by providing a regime of dispossession as much as of protection of native title'; Bartlett, R, ‘Native Title in Australia: Denial, Recognition, Dispossession’ in Havemann, P, *op cit*, pp425-426.

\(^{622}\) Cited in Rowse, T, *Obliged to be Difficult*, p177.

Difference or Division:

Union in the Body of Christ?

The difficulties of coming to any clear understanding of what national unity required, or of the character of the unity promised by reconciliation, are analogous to the theological disputes regarding the nature of the unity promised by the reconciling Christ. Desmond Tutu described what he saw as the unity promised by the South African reconciliation process when he wrote of

a movement, not easily discernible, at the heart of things to reverse the awful centrifugal forces of alienation, brokenness, division, hostility and disharmony. God has set in motion a centripetal process, a moving towards the centre, towards unity, harmony, goodness, peace and justice; one that removes barriers. 624

This was a unity in which division, rather than difference, is transcended: ‘instead of separation and division, all distinctions makes for a rich diversity to be celebrated for the sake of the unity that underlies them’.625

Volf introduces this problem of unity and difference as the dilemma faced by St Paul, who struggled to understand the God of the Torah, Israel’s God, as a universal God. He

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624 Tutu, D, *op cit*, p213.
cites Daniel Boyarin’s argument that Paul subsumes difference and particularity to universality and equality, a solution predicated on a mind-body dualism (where the body is particular, the spirit is universal: see Galations 3:26-28.) According to Boyarin ‘in the process of baptism in the spirit the marks of ethnos, gender, and class are all erased in the ascension to a univocity and universality of human essence which is beyond and outside the body.’ Needless to say, and in the familiar formulation of such things, the erasure of difference quickly turns into, is in fact the beginning and culmination of, such manifest historical and contemporary evils as colonialism, imperialism and sexism.

Volf argues that Boyarin overplays the parallels between Paul and some neoplatonic themes such as the ‘One’. Volf argues that Boyarin has misunderstood the nature of the unity promised by Christ:

the ‘One’ in whom Paul seeks to locate the unity of all humanity is not disincarnate transcendence, but the crucified and resurrected Jesus Christ....far from being the assertion of the one against the many, the Cross is the self-giving of the one for the many. Unity here is not the result of ‘sacred violence’ which obliterates the particularity of ‘bodies’, but a fruit of Christ’s self-sacrifice, which breaks down the enmity between them.

625 ibid, p213.
626 Boyarin, Daniel, A Radical Jew: Paul and the Politics of Identity, Berkeley, Uni of California Press, 1994, p24 at Volf, M, Exclusion and Embrace, p46. See also Paul, Ephesians 2:14-16: ‘For He is our peace, who has made us both one, and has broken down the wall of hostility...so making peace, and might reconcile us both to God in one body through the Cross’; Cited in Verkuyl, J, Break Down the Walls, p 46.
627 Volf, M, Exclusion and Embrace, p46.
From a Pauline perspective, the wall the divides is not so much the ‘difference’ as enmity (cf. Ephesians 2:14). Hence the solution cannot be ‘the One’.

Baptism into Christ is not the erasure of difference but the creation of a people as ‘the differentiated body of Christ’ in which ‘bodily inscribed differences are brought together, not removed’. Where Boyarin sees a colonising Paul jealous of all difference Volf sees the preservation of difference in unity as the end of enmity. The point is not that either Volf or Boyarin are correct, (even if we assume that there is a God, how could we possibly tell?) but that it is possible for them to have this disagreement in this particular language; that the theology of reconciliation is marked by ambiguity and that, even when secularised, these ambiguities are also present in the application of that theology to concrete political situations.

628 ibid, p47. Rev John Saunders described the coming unity of Aboriginal and non-Aboriginal peoples in 1838 as an apocalyptic vision: ‘For be assured that all the peoples of the earth shall yet be gathered to our Saviour, for the scene which John beheld in apocalyptic vision, shall yet be realised. “A great multitude which no man could number, of all nations, and kindred, and people, and tongues...”’; Sutton, J, (ed) Rev. John Saunders: A Beacon Light and Some Baptiste Reflections, p9.

629 ibid, p48. Volf repeats the argument in his discussion of gender identity and Galations 3:28, the passage in which Paul says there is no longer male and female. Boyarin argues that Paul’s ideal is a ‘state of androgyny, a cancellation of gender and sexuality...motivated by a Hellinistic desire for the One which among other things produced an ideal of a universal human essence, beyond difference and hierarchy’. Volf argues that Paul’s unity is ‘not the abstract “One” or “the spirit” which erases particularity and difference, but the single and differentiated body of the crucified and resurrected Christ given for all(1 Corinthians 10-12)’; p183. ‘what has been erased in Christ is not the sexed body, but some important culturally coded norms attached to sexed bodies...’; p184, 186. Volf points to the Triune God as an example of this kind of
Petersen’s discussion of South African apartheid also reflects these ambiguities. Petersen describes apartheid, as a doctrine of the irreconcilability of peoples, as a heresy insofar as ‘it contradicts the biblical argument that all humanity is made in the image of God, called to be one in Christ (Gal. 3:28).’ Petersen then notes the proposal to amalgamate the various racially based South African reformed Churches into a single Uniting Reformed Church ‘where all races are treated with equality.’ Reconciliation is clearly not, in Petersen’s formulation, the end of racial distinctions in an homogenised eschatological gathering, but an equality between races that will survive the Day of Judgment. It is not clear, however, why equality is incompatible with distinct religious and/or political institutions. Why create a single institution to serve the needs of diverse constituencies with a permanent existence? Why is it essential that an equality between groups be preserved within a single institution rather than in the relations between different institutions? Petersen’s original argument against apartheid must then stand in need of qualification: it is not the recognition of difference between groups that is the problem, but the failure to give institutional effect to the equality between them that is of concern. The objection to the apartheid system must therefore be read down or qualified. Reconciliation is compatible with the maintenance of separate political institutions, provided only that the relationship between the groups who create those institutions is just. The point is not to lend any theoretical defence to the Southern African apartheid regime, but to suggest that the concept of reconciliation lends itself to quite different understandings of justice: one as the end of enmity, the other as the end of difference.

unity in diversity: ‘distinct persons are internally constituted by the indwelling of other persons in them...a self enclosed identity constituted in pure opposition to the other is unthinkable’; p187.

630 Petersen, R, op cit, p19.
The language of reconciliation does not solve this problem, but repeats it anew in a secularised theological idiom.

Kevin Gilbert had said that all that Aboriginal people wanted was to be given enough resources to solve their problems and to be left alone; John Howard had said that true reconciliation involved the ‘recognition of the common destiny we share together as Australians.’ These two images of a reconciled Australia could be characterised as relating to the politics of indigeneity and of citizenship respectively. One focussed on the rights of Indigenous persons as members of a distinct cultural group within the Australian nation, the other attempted to ‘reconstitutionalise’ the relations between Indigenous and non-Indigenous peoples in Australia. As Maaka and Fleras describe it, the indigenisation of rights discourses which began in the 1970’s has ushered in a new ‘transformational’ politics based on original occupancy. That politics ‘resonates with references to sovereignty and self-determination’:

Particular emphasis is focussed on indigenous peoples as fundamentally autonomous political communities, each of which is sovereign in its own right, yet sharing in the sovereignty of society through multiple, yet interlocking jurisdictions.632

There was room for both of these images of a ‘united’ Australia within the discourses of reconciliation, because those discourses presume difference but promise unity, without providing any definitive account of the nature of that unity or even, necessarily, how it was to be achieved. One commonality linking these two images of unity is the promised authenticity of a reconciled Australia. The nation would exist at a higher state of unity, it would no longer be spiritually diminished, and it would have a deeper, more authentic understanding of its past, and of itself. But despite this commonality, the unity imagined by conservative and progressive supporters of reconciliation was fundamentally different. And it was not the case that one or the other had a proper or ‘true’ understanding of reconciliation. The very idea of reconciliation, as a background agreement in forms of life or language derived from Christian theology and penitential practice, did not provide either with an answer to the question, what should be the shape of the relationship between Indigenous and non-Indigenous peoples in Australia?

the politics of indigeneity, see Barcham, M. ‘(De)Constructing the Politics of Indigeneity’ in Ivision, D, et al, op cit, pp137-151. An instance of the politics of indigeneity in action is Galarrwuy Yunupingu, ‘We Know These Things to be True’ 1998 Lingiari Lecture: ‘it’s really all about two laws’, yolgnu law and balanda law. For a survey of academic debates surrounding the rights of minority cultures see Kymlicka, W, Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship, pp 17-27.
Conclusion

The virtues of bipartisanship are in large part illusory. Tickner and Wooldridge's 1991 hand shake over the parliamentary dispatch boxes had been a rare moment of cooperation in one of Australia's most controversial debates. But if anyone was to think that the nineties would prove to be a more peaceful period in the politics of Indigenous affairs than had hitherto prevailed they would have been mistaken. From the *Mabo* decision to the Bridge Walk in 2000, the Aboriginal reconciliation process was marked by an atmosphere that at times bordered on the venomous. Those Aboriginal people who had greeted the process as a sell-out would themselves contribute their own, often radical, definitions of reconciliation. This was a politics of difficult moral analysis, of guilt and shame as much as apology and redemption, and of unexpected political controversy. Who could forget Hanson's maiden speech to the Commonwealth parliament, her wavering voice capsizing in a moment an orthodoxy built over a generation? Or the delegates to the 1997 Reconciliation Convention standing to turn their backs on Prime Minister Howard as he struggled to articulate why an apology to the Stolen Generations was not warranted?

Ted Moses put the issues succinctly in his address to the same convention. The road to legitimacy for the settler state ran via reconciliation. The perceived illegitimacy of colonial occupation now required a remedy. The Australian High Court had in the *Mabo* case abandoned the doctrine of *terra nullius* in relation to property rights but had
provided no alternative legal fiction by which it might be thought that the British acquisition of sovereignty had been legitimate. We are left with the unsatisfying news that such an acquisition is a question not justiciable in a domestic court. Pending further development of the common law, a political solution will be required. A treaty negotiated between the Commonwealth and representatives of Indigenous peoples may provide such a resolution. But the Coalition in the eighties had already made too much of black parliaments and a nation divided, and by their objections had turned the treaty making process into the Aboriginal Reconciliation process. Reconciliation was in this limited sense a sell-out.

To ask for forgiveness, to say the word sorry, at one moment implies an undertaking not to repeat the offence, to provide restitution, and to recognise the harm that has been done. The word reconciliation suggests a bargain, an economic exchange of forgiveness for some kind of penance: land rights, a treaty, political representation, the list goes on. To come to some kind of political and 'economic' reconciliation entails at least this much. But not even this was achieved in Australia. No agreement was reached concerning the terms on which a reconciliation between Indigenous and non-Indigenous Australia would be made. No treaty or framework agreement has been signed. The Council's final recommendations were largely ignored by the Howard government. Its documents of reconciliation are already reduced to the status of historical curiosities.

It would appear that the politics of this period testify to the triumph of style over substance, of the transformation of public debate into a pop-psychologica of the nation.
What does it mean, for example, to say that a nation is traumatised? Notwithstanding Jung, it would seem that we should remain sceptical that a national psyche exists in any natural-scientific sense. The significance of the terminology is metaphoric. It provides a means to express certain aspects of political life that do not have a natural-scientific and quantifiable existence. How do we calculate, for example, the pain suffered by those children removed from their families, by their parents and their relatives? And how can we tally up the guilt and regret felt by those responsible for these policies and by those who in later years came to feel that the responsibility was theirs also?

The reconciliation process was neither strictly legal nor political in the traditional or conventional sense of those terms. It created no lasting institutional innovations. Nor did it alter the constitutional relationship between Indigenous and non-Indigenous peoples. But this is not to say that the period was an entirely unremarkable one in the history of Indigenous/non-Indigenous relations in Australia. There is a case for saying that it was in fact one of the most interesting. The deployment of ancient religious images onto the imagined moral corpus of the nation was a fascinating as much as accidental experiment. Perhaps only the Christian Churches initially understood the power of these images. They had lobbied for a reconciliation process in the late eighties and in the early nineties the Hawke Labor government concurred. Few noticed or were prepared to publicly draw attention to the religious dimensions of this language. Yet despite its apparent secularisation the mundane language of Aboriginal reconciliation retained its Christian shape.
It was for precisely this reason that the language of reconciliation was able to open new ways of talking about the relationship between Indigenous and non-Indigenous Australia. It became possible to talk of confessing or truth telling, of healing and of penance or restitution for wrongs long since committed and by many also forgotten. And it also became possible to think of the nation in different terms than had previously been possible. If the language of reconciliation presupposed the existence of two distinct political constituencies, Indigenous and non-Indigenous Australia, it also allowed us to conceive of the relationship between those constituencies in terms of guilt and penance, of historical grievance as much as the hope for a future unity based on the principles of equality and justice. The language of Aboriginal reconciliation was in this way related to the Christian penitential technologies of guilt and forgiveness that also bear the name reconciliation. Pluralist interpretations of reconciliation, for example, figured a reconciled Australia as a just and harmonious union between different parts of the nation that had accounted for the historical sources of division between themselves. The Aboriginal Provisional Government, Patrick Dodson and others argued that a true reconciliation would be achieved by means of a compact or agreement between the Commonwealth and representatives of Indigenous peoples. In the late eighties and early nineties the Hawke and Keating Labor governments had also argued that reconciliation was not an alternative to a treaty but would be achieved by means of an agreement or compact.

The Howard government was for its part keen to banish from reconciliation discourses any suggestion that Indigenous peoples possessed rights derived from indigeneity or from historical dispossession. A reconciled Australia was for the Prime Minister a nation
marked by an 'essential unity' in which no one group enjoyed rights not enjoyed by others. Conservative interpretations of reconciliation were however somewhat confused. Howard, Howson and Hanson offered definitions of reconciliation that were essentially variations on an older assimilationist theme: equality as an identity amongst the demos in either cultural or political-legal terms or both. A nation, that is, marked either by a certain uniformity of culture or by a strict liberalism indifferent to the claims of race or culture. Hanson's spasmodic attacks on 'special rights' for Indigenous peoples had only a political and not a conceptual ally in her attacks on Asian immigration. On the one hand she argued for the state to be indifferent to race, to abolish ATSIC and native title; on the other she called for the state to limit certain forms of immigration lest the Australian nation lose its Anglo-saxon homogeneity and hence its best chance for a peaceful future. That these claims were conceptually incongruent did not limit their appeal. Yet this tension also marked Howard's efforts to describe a liberalism that was at home with his commitment to the 'essential unity' of the nation. This tension marks the language of all liberal-democracies.

The language of reconciliation was sufficiently malleable to accommodate earlier and diverse policy debates without providing the means by which to resolve those debates. There was a constant tension between the politics of indigeneity and the politics of citizenship. At its most extreme point this tension can be described as the difference between a reconstituted treaty politics and the liberal assimilationism of Howson and Hanson. In this sense, we could say that the participants in the Aboriginal reconciliation process had this language to use as they wished. No one would doubt that the parties to
the process adopted positions that were at times highly pragmatic, and this is as true of Indigenous leaders as it is of Prime Minister Howard. Yet as much as we had this language, there were times when it seemed that it also had us. The language of reconciliation was not just a tool but also a challenge and a predicament. The debate on whether the Commonwealth parliament should offer an apology to the Stolen Generations is perhaps the best example of how this language of reconciliation took us toward the issue of apology without providing any definitive solution to the problem. The intersection of this language of confession and penance with other assumptions about individual will and of the nation as collective and conscious created a tremendous moral quandary that remains unresolved. The debate on the relationship between reconciliation and justice also demonstrates these difficulties: does reconciliation require that Indigenous peoples forgive and forget in the name of a common, united future, or does it entail costly reparations?

Animating both of these debates is the aporia at the heart of reconciliation: the relationship between the forgivable and the unforgivable. Sorry isn’t always enough. The unforgivable remains outside of the logic of sorrow and forgiveness. There is something more terrible and only a miracle, the impossible, can provide for it. Yet it is only the notion of the unforgivable that makes it possible to talk of forgiveness. Only the forgiveness of the unforgivable can escape the economic relation of exchange in which sorry is bound to penance, remorse and forgiveness. Forgiveness always risks being assimilated to a moral-economic relation of exchange and as such always risks being contrived and manipulated rather than gracious, infinite, and freely given. Only the
forgiveness of the unforgivable escapes this. This is the double injunction at the heart of the Christian language of reconciliation, to forgive on condition of $x$ and at the same time to forgive the unforgivable. Forgiveness as a sacramentally mediated exchange and forgiveness as a divinely given and unpurchasable gift are the two concepts of forgiveness identified in Chapter Two as (for simplicity's sake) Catholic and Protestant respectively.

The appalling thing about the reconciliation process then, the deconstructive thing, was that it hardly seemed able to bear the ethical weight of its own name. A government sponsored and institutionalised process would never be enough to do justice to this word, reconciliation. It would always look too contrived, too bound up with the economic calculation of mine and yours, of payments on condition of $x$. Ruddock, McGuiness and Mulgan all pointed to the difficult moral economies of the apology debate. Ruddock, for example, suggested that the apology debate was in the end about the Commonwealth's liability for material reparations rather than about expressing sorrow for or empathy with Indigenous persons affected by the policy of child removal. And whilst one might legitimately disagree with Ruddock's assessment of the motivations of those who sought an apology, he had correctly identified the economic relation between apology and some kind of penance or restitution on the one hand and forgiveness on the other. This economic exchange, a compromised reconciliation in the name of making the polity work, is one of the poles identified by Derrida as irreconcilable but indissociable imperatives of the language of reconciliation. But to do this, to engage in the bargain suggested by the word reconciliation, is to move away from that gracious, infinite,
aneconomic forgiveness of the unforgivable by which it makes sense to talk of reconciliation. Every attempt to achieve a political or earthly reconciliation between individuals and collectives must face this test and most likely fail.

The Aboriginal reconciliation process did not appear to many as a peculiarly Christian project. Certainly there was little mention of the Almighty, at least in 'public'. But as a technology of the self deployed upon the imagined moral body of the nation, and as a concept which gave a particular shape to the debate about relations between Indigenous and non-Indigenous Australia, the Aboriginal reconciliation process was from beginning to end a particularly Christian one. Unrecognised as such by a liberalism bound up in the distinctions between fact and value, reason and faith, it animated Australian politics for a decade, without, in the end, providing anyone with the answers to the question posed. The state already possesses a monopoly on the legitimate use of force, and it would be wrong to allow it a further monopoly on the legitimate use of theology. The institutions of Church and State should remain separate. But the apparently secular language of Australian politics contains, or is open to, a religious dimension in the form of secularised theological concepts that have retained their Christian shape. The 'deregulation' of these concepts is, as Beckford put it, the hidden irony of secularisation. The liberal constitutional state remains open to this religious language because it cannot finally identify the religious. Secularisation, rather than being the gradual rationalisation of the world to the exclusion of the sacred, appears here to be the transposition of religious concepts into apparently mundane or 'earthly' political discourse.
This secularised religious language does not provide the Answers to the Big Questions in an age of apparent unbelief. But it does provide the means by which to pose some of those questions, to open up some new ways of thinking about relationships between groups. At the same time, this language also closes off other possibilities. As a picture which held us captive for a decade the language of reconciliation obscured an older debate on Indigenous sovereignty in the image of the desired or expected unity of a post-colonial Australia. If we had not decided on reconciliation, for example, it would be difficult to imagine how the question of an apology to the Stolen Generations could have morphed into a question going to the whole history of colonial occupation. But if Indigenous peoples had insisted on the word treaty, and decided not to engage non-Indigenous Australia in the language of reconciliation, perhaps they would have had one by now. But such thoughts must remain as speculation only.

If the language of reconciliation provided a kind of background agreement by which it was possible to talk of the relationship between Indigenous and non-Indigenous Australia in terms of guilt, apology and forgiveness, it did not settle the question of just terms or of the nature of the expected unity. Even when secularised and fashioned as an institutionalised political process, it repeated the theological ambiguities and aporias between penance and forgiveness, difference and unity. This is not necessarily a condemnation of the process, because it is from these same ambiguities that the process drew its strength. But it does suggest that even if the concept of reconciliation was a picture to hold us captive, to point us in the direction of confession, apology, penance and above all unity, it still left room for decisions. The language of reconciliation did not
provide us with a definitive answer to the question, what should be the shape of the political and legal relationship between Indigenous and non-Indigenous Australia? Progressive and conservative supporters of reconciliation imagined a unity that was fundamentally different. The language of reconciliation legitimated both of these unities, such that neither could credibly say, a true reconciliation requires \( x \), not \( y \). Would a reconciled Australia be an association of Indigenous and non-Indigenous peoples, their relationship governed by a treaty, or would it be a liberal union of individuals in which all, paradoxically, are the same? The official reconciliation process has finished but these questions will continue to be asked.
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