

ResearchOnline@JCU

This file is part of the following reference:

Smallwood, Gracelyn (2011) *Human rights and first Australians' well-being*. PhD thesis,

James Cook University.

Access to this file is available from:

<http://eprints.jcu.edu.au/20193>

The author has certified to JCU that they have made a reasonable effort to gain permission and acknowledge the owner of any third party copyright material included in this document. If you believe that this is not the case, please contact ResearchOnline@jcu.edu.au and quote <http://eprints.jcu.edu.au/20193>

Human Rights and First Australians' Well-being

by

Gracelyn Smallwood AM

Registered Nurse

Registered Midwife

Indigenous Mental Health Certificate

Master of Science in Tropical Medicine Science

Submitted in fulfilment of the requirements for the degree of

Doctor of Philosophy

School of Public Health, Tropical Medicine and Rehabilitation Sciences

James Cook University

October 2011

Statement of Contribution of Others:

Nature of Assistance	Contribution	Names, Titles and Affiliations of Co-contributors
Intellectual support	Proposal writing Editorial assistance	Professor Rick Speare, Supervisory, James Cook University Dr Jenni Judd, Co-Supervisor, James Cook University Dr Garry MacLennan, Division of Indigenous Education and Training Futures, Department of Education Queensland
	Editorial assistance	Ms Tricia Emmanuel, Anton Breinl Centre, James Cook University
Financial Support	Grant writing Stipend	Dr Jenni Judd, Co-Supervisor James Cook University NHMRC Indigenous Capacity Building Grant (431504) PHCRED Fellowship, MICRRH, Mt Isa, James Cook University Native Titles Centre, James Cook University
Data Collection	Research assistance Document retrieval	Dr Gary MacLennan, Division of Indigenous Education and Training Futures, Department of Education Queensland

Statement of access

I, the undersigned author of this work, understand that James Cook University will make this thesis available for use within the university library and via the Australian Digital Thesis Network, for use elsewhere.

I understand that, as an unpublished work, a thesis has significant protection under the Copyright Act and I do not wish to place any further restriction on access to this work.

Signature

Date

Statement of sources

I declare that this thesis is my own work and has not been submitted in any form for another degree or diploma at any university or other institution of tertiary education. Information derived from the published or unpublished work of others has been acknowledged in the text and a list of references is given.

Signature

Date

Electronic Copy

I, the undersigned, the author of this work, declare that the electronic copy of this thesis provided to the James Cook University Library is an accurate copy of the print thesis submitted, within the limits of the technology available.

Signature

Date

Declaration on Ethics

The research presented and reported in this thesis was conducted within the guidelines for research ethics outlined in the National Statement on Ethics Conduct in Research Involving Humans (1999), the Joint NHMRC/AVCC Statement and Guidelines on Research Practice (1997), the James Cook University Policy on Experimentation Ethics, Standard Practices and Guidelines (2001), and the James Cook University Statement and Guidelines on Research Practice (2001). Given there were no interviews conducted in this research and that all information was publicly available, no ethics approval was required.

Signature

Date

Acknowledgements

I would like to make the following acknowledgements with the hope that in this process, I do not leave anyone out. It would be impossible to mention all who have assisted me during my lifetime, and in the writing of my thesis. Still I will try to do everyone justice in this short summary.

Firstly, I want to thank my Creator and Ancestors, as my prayers always seem to be answered.

To my amazing, strong political and cultural family, you are all “TOO DEADLY”.

My Grandparents Alf and May Stanley and family, have had a profound effect on my life, thank you for being there.

I especially want to thank my Parents: Grace and Archie Smallwood for teaching me how to be an Activist from a very young age. Thank you to all of my siblings and offspring as there are way too many to mention. What can I say? Thank you for being there through thick and thin and supporting me on my long journey, both in life and with this thesis.

A particular thank you to my Eldest sister, Dorothy, her husband Sammy, and their family, my achievements would not be possible without your strong cultural and family support to myself, my children and my grandchildren.

Thank you to my Sister Jeanette Wyles for your honesty when proof reading my work over the years, especially for telling me like it is.

To my brother Alfred Smallwood, after 40yrs of alcoholism and now six years sober, you are certainly an inspiration- keep strong. Thank you for making our dream a reality, and for working tirelessly in our community, with those who are less well off. Keep cleansing our spirits.

A special thank you to my sister Lyn Munns for your prayer chain and prayers, I need all the help I can get.

I especially want to thank my Principal Supervisor, Professor Rick Speare, both to you and your wonderful wife, Dr Kerry Kelly. You have both played a major role in my life over the past 30 yrs. I am deeply grateful, as you continue to advocate for our community in “Closing the Gap” and you are a constant inspiration.

To my other Supervisor, Dr Jenni Judd, to both you and your wonderful partner Louise Scanlan, who have kept me fully nourished with healthy food, occasionally your lovely processed grape juice, and a comfortable bed, a heartfelt thanks. Also I am eternally grateful for those many long hours in your peaceful home during your supervision of this thesis.

I am so grateful to my research mentor and friend – Dr Gary MacLennan, what can I say? Apart from being so emotional and humorous for the long hours you and your wonderful family spent with me over the years. Gary assisted me to access documents and references. However, his major academic role was helping me build my research capacity in critical realism, the theoretical foundation of the methodology of my thesis. To my administration ‘guru’ - Rebecca Smith, with all of your children, thank you so much for being on call 24 hrs a day, with no pay!

Marcia Croucher, thank you for your friendship for the past 25 years and for all of yours and Judy Woosnam’s expertise and support from the Anton Breinl Centre. Your contributions have been invaluable

Dr Ian Wronski and Maggie Grant who I met in the Kimberley’s 35 years ago, thank you Ian for advising me to go to that Nookenbah demonstration in WA, where they locked me up, seriously thanks for the memories from Broome Aboriginal Medical Service. Also to Karen Lusk, thank you for your toughness and guidance, during my time whilst employed at James Cook University.

To BIRC:

Whilst working on this thesis I was fortunate to be a Team Investigator on the Building Indigenous Research Capacity Grant (BIRC; NHMRC-431504) at James Cook University from 2007-2012. The BIRC grant had three objectives: 1) to build the research capacity of a cohort of 13 (expanding to 18) Indigenous researchers based in Northern Australia, South Australia and NSW; 2) to establish a network to promote Indigenous health research and build capacity in a number of Aboriginal Community Controlled Health Services (Kimberley Aboriginal Medical Services Council; South Australia Health Council and Waminda (South Coast Women’s Health and Welfare Aboriginal Corporation) who were already involved in Indigenous and population health research; and 3) to investigate and analyse models of how Universities can best build research capacity in Indigenous population health researchers.

As a result of BIRC, which provided additional monetary support, research training and mentoring and support from Dr Jenni Judd, I was able to take advantage of some study funding of \$12,500 to support my study needs. I was also supported to apply for a PHCRED (Primary Health Care Research Education and Development) grant through Mt Isa Centre for Rural and

Remote Research. As a Kalkadoon descendant (the other part of my heritage) I was eligible to apply for this grant. I was successful in gaining this grant which enabled me to employ Dr Gary MacLennan as a research officer, and to work full time on my thesis for 3 months. Gary was able to offer research capacity training and development by assisting me to access documents and references; and to develop my capacity in Critical realism as an important theoretical framework in which to position my research. These additional resources contributed positively to my progress in completing my PhD.

To my Elders:

Dorothy and Sam Savage, Aunty Renata Prior, Aunty Jean Walker, Aunty Dorothy Murphy, Aunty Josie Sailor (and your daughter, Deanne), Dr Ernie Hoolihan and your deceased wife Aunty Maude, Mr Jim Gaston, Aunty Phyllis Nuggins, Uncle David Tapim and Aunty Mary Tapim (Deceased), Pop Eric and Bessie Lymburner (Deceased).

A big thank you for your support, language, culture, politics, and stories over the years.

To my Friends:

Thank you to Mrs Karel Gallagher nee Spina, your three sons Mario, Michael, Marty and Mr Joe Spina for giving me my first job at the age of 14yrs and for our continued friendship over the years. To Sister Shereen Malamoo, thanks sis, for all of those years of jazz when life was down.

Dr Betty McLellan, thank you for your support and healing over the last 30 years

Thanks also to Randal Ross, my Red Dust Healing Brother!

Sponsors in-kind and/or financial:

I would like to make a particular mention and thanks to the Building Indigenous Research Capacity (BIRC) NHMRC project and my fellow BIRC Scholars for their peer support, research training, mentoring, and the Internal grant support.

My first grant from Native Title Studies Centre-James Cook University: 2005-2006.

To the Primary Health Care Research, Evaluation and Development (PHCRED) Fellowship from Mt Isa Centre for Rural Remote Health (MICRRH), James Cook University grant: 2009-2010.

Thank your to Mr Colin Edwards, Mr Mark Wellsby, Ms Iris Neill, and Mr Sean Choolburra for your contributions.

Now, to my Children, Christopher also known as Noddy; Dorothy also known as Fabs; and Alfred, I'm still deciding. I've always loved you. Although we have not always agreed, you continue to be my inspiration and I leave you with this thesis as my legacy.

Finally, thank you to everyone else who has assisted me in this long journey in and for Human Rights.

I especially want to mention my deceased sister, Christine Winitana (nee Pryor), best friends for ever from school days to adult life. Thank you for believing in me and always pressuring me to complete my thesis and other publications. I dedicate this thesis to both you and my family.

Gracelyn 'Gullidala' Smallwood



Source:

[en.wikipedia.org/wiki/File:Seagull_flying_\(5\).jpg](https://en.wikipedia.org/wiki/File:Seagull_flying_(5).jpg)

N.B: 'Gullidala' is my BirriGubba name for seagull. Given to me by Elder Renata 'Gootha' Prior



“WADAMOO LIE ALL”



Some other important Photographs and memorabilia:

Please be advised that some of these images *will* contain people who *are deceased*

Gubbullamunda (Carpet Snake totem of the Birrigubba Nation taken at Plantation Park, Ayr North Queensland



Source: Personal Collection

Monument with Elders for the return of the Ancestral remains from overseas museums in 1986



Source: Personal Collection

Christine Winitana nee Pryor



Source: Personal Collection

Sam and Dorothy Savage- Eldest Sister and her Husband



Source: Personal Collection

1988 -My wedding with Mum, and the Great Aunts and Uncles



Source: Personal Collection

Grace Smallwood (Mum) with some of her children- 2001

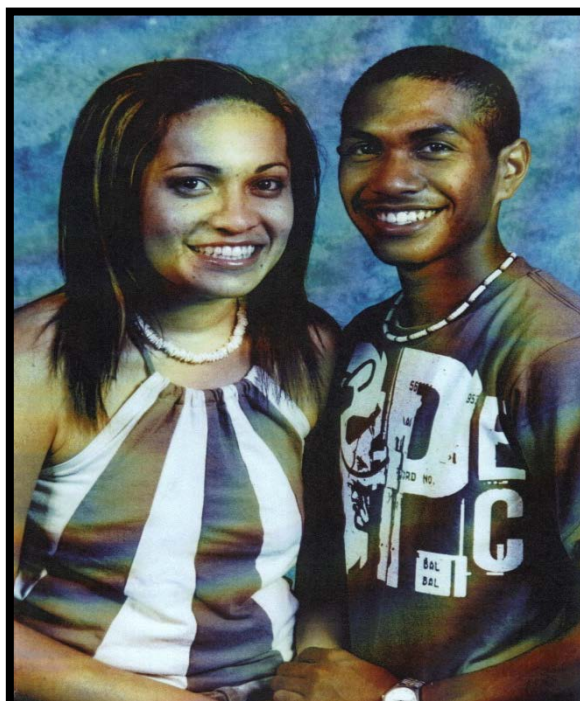


Source: Personal Collection

My Son Christopher, his wife Michelle and their Children Christopher, Melody, Jade, Stephen, Kira, Mia- 2001



My daughter Dorothy and my Son Alfred-2007



Sources: Personal Collection

My Grannies: Mathias, Alexis and Kianu



Source: Personal photo collection

My Mum with her sisters Jean, Dorothy and Marion



Source: Personal Collection

Abstract

This thesis consists of a defence of what is popularly known as the Human Rights Agenda in Indigenous Affairs. The thesis begins with a consideration of the non-well being of Indigenous Australians. It then unfolds a personal narrative of my family. This narrative is designed not only to position this author in the thesis but also in its typicality to represent what has happened to so many Indigenous families. The thesis then moves to a critical engagement with dominant intellectual positions such as those advanced by commentators such as Noel Pearson, Peter Sutton, Gary Johns and Keith Windschuttle. I think it can be fairly argued that intellectuals such as these have to a great extent colonised what passes for common sense in mainstream Australia. As such, their work calls for a measured reply.

This common sense straddles the domains of history, health and education and I have chosen to follow my adversaries, for that is what they are, into all of these areas. To the best of my knowledge this thesis is one of the first attempts by an Indigenous activist to engage at a critical and intellectual level with them.

This critique is anchored by a number of key philosophical concepts developed by the Critical Realist philosopher Roy Bhaskar. The thesis advances and analyses a number of case studies - some well known, even notorious such as the Hindmarsh Island Affair and the Northern Territory Intervention; others like that of my late nephew Lyji Vaggs and Aboriginal Elder May Dunne much less so. There are six case studies in all. I could of course have chosen many more from our history. Truly it is littered with the wreckage of Indigenous lives and hopes. It was simply impossible to record the suffering of all my people. Nonetheless I want it to be known that the suffering of our people is not forgotten by me and my fellow activists and family members. I dedicate this thesis then to the memory of all those Indigenous people who have endured the long horrors of colonialism. The thesis concludes with a hope for a better Australia, one where reconciliation between Indigenous and Non-Indigenous Australians is based on a full recognition of the rights of First Australians

List of Abbreviations

ABC	Australian Broadcasting Commission
ACL	Australian Christian Lobby
AIDS	Acquired Immune Deficiency Syndrome
AIWH	Australian Institute of Health and Welfare
ATSIC	Aboriginal and Torres Strait Islander Commission
AVCC	Australian Vice-Chancellors' Committee
BIRC	Building Indigenous Research Capacity
CATT	Community Assessment and Treatment Team
CIS	Centre for Independent Studies
CNN	Cable News Network
D.O.G.S.	Australian Council of the Defence of Government Schools
HDI	Human Development Index
HREOC	Human Rights and Equal Opportunity Commission
HRCC	Human Rights Consultative Committee
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Convention on Economic, Social and Cultural Rights
INGO	International Non-Governmental Organisations
MICRRH	Mount Isa Centre for Rural and Remote Health
NAAJA	North Australia Aboriginal Justice Agency
NHMRC	National Health and Medical Research Council
NHRC	National Health Research Centre
NSW	New South Wales
NT	Northern Territory
NTER	Northern Territory Emergency Response
PHCRED	Primary Health Care Research, Evaluation and Development
QC	Queen's Counsel
QUT	Queensland University of Technology
QR	Queensland Rail
SAHRC	South African Human Rights Commission
TAIHS	Townsville Aboriginal and Islander Health Service
UK	United Kingdom
UN	United Nations
UNDHR	United Nations Declaration of Human Rights
WA	Western Australia

Table of Contents

Table of Tables.....	xix
Table of Figures	xix
Table of Pictures	xx
Chapter 1. Introduction: First Australians Well-being and the Case for Human Rights	1
Chapter 2. Methodology.....	15
Chapter 3. Narrative and Testimony	44
Chapter 4. The Tradition of all the dead Generations... the Tradition of all Indigenous Generations... ..	70
Chapter 5. Engaging Sutton and Pearson	102
Chapter 6. The Education Wars	129
Chapter 7. Human Rights and the Aboriginal People of Australia.....	157
Chapter 8. Human Rights: The Hindmarsh Island Affair, the Battle for a Bill of Rights and the Northern Territory Intervention.....	182
Chapter 9. The frontier is dead. Long live the frontier	210
Chapter 10. Conclusion.....	225
References.....	236

Table of Tables

Table 1.1: Communicable Diseases and Indigenous Australians (Calma, 2009, p.26-27)	8
Table 1.2: Pre-contact and post-contact categorisation of First Australians (Adapted from Phillips, 2003, p.15)	11
Table 8.1: Comparison of Child Abuse Cases NSW and NT (Stringer, 2007).	202

Table of Figures

Figure 2.1: Differentiating the Other	37
Figure 3.1: Letter to Superintendent Palm Island about my Grandmother Norah Smallwood, 30 July 1942	49
Figure 3.2: Newspaper article 1960	53

Table of Pictures

Picture 2.1:	Klee's Angelus Novus.....	17
Picture 2.2:	Francis J. Gillen (front left) and W. Baldwin Spencer (front right) at Alice Springs, Northern Territory, in 1901. The men in the back row are (from left) Erlikiliakira, Mounted Trooper Chance and Purula	25
Picture 2.3:	Peasants dressed in 'civilised' clothes.....	26
Picture 2.4:	A group of Yanyuwa and Marra men who share a camp by the Macarthur River, Dec. 1901. Photograph Baldwin Spencer.....	27
Picture 2.5:	The Feared and Despised Other.....	38
Picture 2.6:	Pauline Hanson and quotes from her maiden speech.....	39
Picture 2.7:	A 1967 referendum poster urging vote to recognize the First People of this land as Australians.....	40
Picture 3.1:	Dad - 1975	48
Picture 3.2:	Grace Smallwood -2000	54
Picture 3.3:	My Grandad Alfred Stanley.....	55
Picture 3.4:	My Grandma May Stanley.....	55
Picture 3.5:	Mum and Dad's wedding 1949.....	58
Picture 3.6:	Mum Dad and my siblings - 1972.....	59
Picture 3.7:	Gracelyn's Graduation 1973 Registered Nurse (RN) and Midwife	62
Picture 3.8:	Aboriginal Tent Embassy Activists 1972	65
Picture 3.9:	Demonstrators at Commonwealth Games, Brisbane 1982	66
Picture 3.10:	Senator Bonner.....	68
Picture 4.1:	Child	71
Picture 4.2:	Caption says "3 white girls	71
Picture 5.1:	Peter Sutton.....	102
Picture 5.2:	On 26 August 1975 Prime Minister Gough Whitlam handed a leasehold title to land at Daguragu (Wattie Creek) to Vincent Lingiari, representative of the Gurindji people	113
Picture 5.3:	Noel Pearson and John Hartigan CEO Chairman of News Limited.....	116
Picture 6.1:	Before: Three Lakota Boys on entering Carlisle Indian School	131
Picture 6.2:	After: The same three Lakota boys begin the process of being 'civilized'	131
Picture 6.3:	Samuel Chapman Armstrong (1839-1893).....	134
Picture 6.4:	Richard Henry Pratt (1840- 1924).....	134
Picture 6.5:	Chris Sarra	140
Picture 6.6:	Gary Johns	144
Picture 6.7:	Helen Hughs	151
Picture 8.1:	Bruce Trevorrow and his adopted siblings	196
Picture 8.2:	'ALICE SPRINGS, AUSTRALIA - JULY 06: Indigenous Affairs Minister Mal Brough (L) talks to an Aboriginal elder from the Mutitjulu community July 6, 2007 in Mutitjulu'.	204
Picture 9.1:	A still from the video showing the indigenous man, "Chappy", singing and dancing with a police officer nearby	212
Picture 9.2:	Lex Wotten speaking publicly before being incarcerated.....	219
Picture 9.3:	A justice rally in the early 2000's	219
Picture 10.1:	Governor Davey's Proclamation. Dated around 1830. From State Library of Tasmania	230
Picture 10.3:	The two-row wampum	233

Chapter 1. Introduction: First Australians Well-being and the Case for Human Rights

This chapter will discuss the reasons why I set out to write this thesis. It will overview the structure of the thesis and will describe the background of First Australian's health and (non) wellbeing.

The impulse to write this thesis has come from a life long struggle for the rights of my people, the First Australians of Australia and also for the rights of the Torres Strait Islander people of Australia. I also write partly in response to urgings, such as those made by Catherine Branson (2010) for all of us to do what we can to ensure respect for Human Rights, be it at home, at school, at work, or in the streets. I would add, as will be seen in Chapter Nine, the universities, the hospitals and the prisons.

I make no apology for the at times angry tone of what I write. However, while I spurn a spurious neo-Kantian identification of the objective with the impersonal, I am more than willing to admit that this is not a neutral thesis. This thesis is informed by a clear commitment to a Critical Realist notion of the truth in that I seek to uncover the reason for things not propositions (Bhaskar, 1993, pp.211-218). Moreover, the intent of my thesis is also inspired by Critical Realism, in that it will contribute in a small way to the emancipation of my people.

My overall intention has been well expressed in another context by Vicki Grieves. In her response to Keith Windschuttle's (2009) shameful pro-colonialist book *The Fabrication of Aboriginal History, Volume One: Van Diemen's Land 1803-1847*, Grieves (2003) writes:

Deeper understandings of the complexities of our histories will enable us to chart an optimal future for this country. That is, a future free of the colonial yoke, informed by new understandings of our humanity and the need for social justice, reflected by the intelligentsia and in popular culture (Grieves, 2003, p.198).

So despite the engagé and at times even enraged tone of what follows, I have endeavoured throughout to produce a work that consists of a reasoned response to the thesis question: How important are the notions of social justice and Human Rights in the emancipation of First Australians?

On the face of it this question would appear to be rather banal and to cry out for a simple non-controversial affirmative answer. However, my thesis is being written at a time when the notion of a policy based upon the Human Rights of the First Australians has come under sustained, powerful and influential attack (Johns, 2006; Merlan, 2009; Sutton, 2009; *The Australian*, 2011; Windschuttle, 2002; 2009). Indeed Sutton (2009) as we will see in Chapter Five explicitly

blames what he terms the 'rights agenda and the redistribution of power' for the current state of First Australians (Sutton, 2009, p.11). As recently as the 15th April 2011, this charge has been repeated in an Australian editorial which claimed:

Australians want to see better outcomes and an end to the shameful conditions endured by any First Australians. Yet the professional class of urban blacks is more interested in bridge walks or the agenda of the Human Rights and Equal Opportunity Commission (The Australian, 2011).

Sutton's (2009) work is part of what Barry Morris and Andrew Lattas (2010) have termed a 'collective pretence'. This would have it that:

... it has not been inadequate funding, high staff turnover, poor planning, constantly changing policies and ineffective management which have led to poor health, education, housing, employment and material living standards for Indigenous people. Instead, Aboriginal culture and self-determination are blamed even though there is good reason to question the token and limited forms of self-management given to Indigenous citizens (Morris and Lattas, 2010).

If Human Rights based policies are under attack, so is the allied notion of social justice. It has been subject to scorn and criticism by the followers of the neo-liberal Friedrich August Hayek who has been described as 'one of the greatest political thinkers of the twentieth century' (Tomasi, 2007). Typical here is the work of Thomas Sowell (1999).

Sowell's (1999, p.14) tactics are firstly to argue that the kind of information necessary to rectify social inequalities is not available to governments. One of the examples he considers is that of 'racial preference' in admission to colleges (Sowell, 1999, pp.14-15). Here he resorts to the metaphor of guiding a river boat. The claim is that the college will have to know every student as thoroughly as the captain knows the river, but this is impossible as each group of people has a unique history and an accompanying set of reasons for its disadvantage (Sowell, 1999, p.15). While it is true that every group of people has its own unique history, Sowell exaggerates the scale of the differences and ignores what really matters to the victims of colonialism, which of course is the similarity of outcomes.

For Hayek (1976, p.62) the demand for social justice was an instance of 'naïve thinking' and

... a sign of the immaturity of our minds that we have not yet outgrown these primitive concepts and still demand from an impersonal process which brings about a greater satisfaction of human desires than any deliberate human

organization could achieve, that it conform to the moral precepts men have evolved for the guidance of their individual actions (Hayek, 1976, p.63).

Hayek's (1976) critique of social justice has been well answered by Steven Lukes (1997). The latter condenses Hayek's arguments to six claims and deals with these in turn. The first claim is that the very idea of social justice is meaningless, especially so in a free market society where prices are set by the impersonal forces of the market. So no one can be thought to be acting unjustly. However as Lukes (1997, pp.72-73) points out, the moral question is raised by the question of what one should do about the consequences of these 'impersonal forces'. The market produces social inequalities and suffering and to do nothing about this is unjust. It could be added that there can be no claim that the social consequences of free markets are not known.

The second claim that Lukes (1997) considers is, as we have seen in the quote from Hayek (1976) above, that the idea of social justice is a religious or superstitious one. As Lukes (1997, p.68) points out there is a contradiction here between saying that the notion of social justice has an intrinsically religious meaning and the first claim that the very idea of social justice is meaningless. Lukes (1997) here notes that elsewhere Hayek (1976) has endorsed a religious view of society and moreover that the idea of social justice is religious hardly constitutes grounds for a rejection of the idea of social justice (Lukes, 1997, p.72).

The third claim that Lukes (1997) considers is that the idea of social justice is self-contradictory. The argument here is that the making of a claim for social justice implies that there is someone whose duty it is to provide that. Such however, is not the case in a free market society where no one is in charge. Lukes' (1997, p.73) riposte is that markets are always regulated and the effectiveness or otherwise of these regulations can be judged.

The fourth claim that Lukes (1997) seeks to refute is that claims for social justice are always ideological in that they simply represent the claims of a particular interest group being advanced under a general cover. Here Lukes' (1997) tactic is to bracket off claim four and address claim five that social justice is unfeasible. He follows this with a critique of claim six that attempts to institute social justice that lead inexorably towards totalitarianism.

There are two aspects to Hayek's (1976) claim that social justice is unfeasible. The first of these is that there are many values or contending candidates for the 'good' that it is not possible to choose between them or to arrange them in a Hierarchy. Lukes (1997, pp.75-76) here points out that John Rawls (1971) isolates the notion of justice from the various candidates for the 'good' and asserts that it will not favour any particular claim in an *a priori* fashion.

Hayek's (1976) second argument for the unfeasibility of social justice devolves around the impossibility of any government having sufficient information to enable it to make a just decision with regard to distribution. Lukes (1997, p.76) counters this by first conceding that Hayek's objection does apply to command economies, but not to mixed economies where governments would have sufficient information to modify the impact of markets.

The sixth and final point, as we have seen, is that attempts to introduce social justice, would be disastrous, in that they would inexorably lead to tyranny. Lukes claims that Hayek's position is linked to his libertarian notion that the function of law is not to strive for fairness, but to limit coercion (Lukes, 1997, p.77). It is the absence of arbitrary coercion that Hayek defines as justice. Here, as for Sowell (1999, pp.168-169) the ideal of law is that it be general and abstract and apply to all. Lukes suggests that Rawls in this case gives the counter example of the Apartheid laws in South Africa as general laws which were oppressive in their application (Lukes, 1997, p.77). He also clinches his case against Hayek by pointing out that the latter has no mechanism for addressing the problem of the growing inequalities that the market creates (Lukes, 1997, p.78).

Despite Lukes' (1997) critique of Hayek being a very damaging one, the importance of Hayek's approach to social justice lies in the influence that Hayek and his followers have had on Western Governments and indeed Eastern European governments for the past thirty years. Although Jeffrey Friedman (1997, p.1) argues that Hayek's political influence was confined to the 'miraculous year' of 1989, many of the actions of the Howard led governments (1996-2007) for instance become understandable if we see them as motivated, at least in part by the Hayekian belief in the supreme efficacy of the market in the satisfying of human desires (Davis, 2008, pp.32-33).

I would also point out in this context that the role of the Aboriginal lawyer and intellectual Noel Pearson and the origins of his later writings especially, can be best understood as being extremely influenced by Hayek's basic approach (Pearson, 2010; 2011).

It is this triumph of neo-liberalism that defines the broad political background to my thesis. This triumph has been well described by the late Edward Said (2000). He characterised the consequences of neo-liberalism thus:

What has disappeared is the sense citizens need to have of entitlement -- the right, guaranteed by the state, to health, education, shelter and democratic freedoms. If all those become the prey of the globalised market, the future is deeply insecure for the large majority of people, despite the reassuring (but profoundly

misleading) rhetoric of care and kindness spun out by the media managers and public relations experts who rule over public discourse (Said, 2000).

Instead of the rhetoric of 'care and kindness' I believe that we need a world where these values are put into practice. To say this is to immediately put me at variance with the deniers of social justice. Here Thomas A. Spragens (1993) has usefully outlined three positions. First is what he terms somewhat confusingly, the 'hegemonic' approach which believes 'that it is ...possible to ascertain a single substantive standard of social justice that is rationally persuasive (Spragens, 1993, p.194). Spragens gives as candidates for such an approach the Platonic notion of justice or *dike* and the Marxist dictum in the *Critique of the Gotha Programme* – 'From each according to his ability, to each according to his needs!' (Marx, 1999, p.5).

Looking from a First Australian's perspective at the actual world we have, I cannot think that it is one where Platonic notions of justice or Marxist dreams of redistribution are hegemonic. Leaving that objection to Spragens' terminology to one side, let us consider the next approach, that of the sceptics who could truly be said to be dominant or hegemonic. The sceptics deny the very possibility of social justice and argue that the pursuit of social justice leads necessarily to tyranny. Von Hayek is the most obvious representative of this tendency.

Spragens (1993) rejects the sceptic approach as it would lead to the kind of world where the values of Thrasymachus who argued that 'justice is nothing else than the interest of the stronger' (Plato), would dominate. Indeed, I would maintain that is just the sort of world we have. Spragens (1993) also rejects the hegemonic approach on the ground that because something is unjust does not mean its opposite is just. This he argues is due to the gratuitous and arbitrary nature of life. Talents and abilities are not distributed fairly. Nor is suffering; nor the arbitrary selectivity with which one endows others with the gift of love (Spragens, 1993, pp.208-209). This state of affairs is patently unfair Spragens, concedes but he maintains that attempts to do anything about this would lead to unfairness.

For this reason Spragens (1993) outlines and endorses a third approach which he terms 'pluralist'. There is a recognition here of the need for a just world, but what can motivate such a world? The two candidates presented are 'self-interest' and civic friendship. Spragens (1993, p.213) rejects 'self-interest' because at best he argues it provides for a truce between natural enemies. Certainly a politics based on self-interest is neither noble nor inspiring. Instead Spragens (1993, p.216) endorses civic friendship which is based on the need to recognize that we share the same fate which we should face as friends, who have a commitment to the notion of the 'common good'.

I tend not to agree with Spragens's ground for rejecting the 'hegemonic approach' to social justice. Frankly, I am drawn to absolute notions, such as that all being is good (Collier, 1999) and that, because we share a common core humanity (Bhaskar, 1993), society should be organised to minimise at least those forces which divide us. Here I think Arthur DiQuattro's (1983, p.54) distinction of 'just inequalities' is important. These are inequalities that do not spring from the unethical workings of an exploitative class based society i.e. precisely the inequalities that exercise Spragens.

These 'just inequalities' do not, as DiQuattro (1983) argues in his leftist reading of John Rawls' two principles of justice, lead to a defence of an unjust society. As a Marxist, DiQuattro (1983; 1986) believes that a just society would be a socialist one. Lawrence J. Connin (1985) objected to DiQuattro's attempt to recruit Rawls to the left cause citing Hayek's endorsement of the Rawlsian principles. DiQuattro's (1986) counter attack stressed that Hayek had misunderstood Rawls. Most convincing here is DiQuattro's emphasis on Rawls' belief that the free market did not provide a fair distribution (DiQuattro, 1986, p.308). For Hayek however, there could be no other mechanism than the market and attempts to regulate it would be at best disastrous (DiQuattro, 1986, p.308).

What then of Rawls' two principles?

Each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others [and] 'social and economic equality are to be arranged so that they are both (a) reasonably expected to be everyone's advantage, and (b) attached to positions and offices open to all' (Quoted in Berkowitz, 2002, p.64).

A society governed by these would be a radical advance for First Australians. So would a society governed by Spragens's notion of civic friendship. In both cases such a society would prioritise the question of rights and so in the teeth of the dominance of neo-liberal thought, my argument will still be that yes, Human Rights are vital to First Australians well-being and no, we should not put all our faith in market mechanisms. I also extend this to a rejection of the notion of 'passive welfare' as an explanatory mechanism for the current state of First Australians non-well being, a state which I shall shortly document.

To attack the notion of 'passive welfare' as the one key that fits all, is of course to set oneself up against the full panoply of neo-liberal thought. It would be much easier (and more rewarding) to parrot back to White Australia what they wish to hear, especially in the arena of welfare and some Aboriginal Leaders have done just that (Graham, 2010). However, I am deeply committed to speaking truth to power. This means that I disagree strongly as we will see in

Chapter Four with the Aboriginal leader Noel Pearson. It also means that I agree with Graham (2010) when he writes:

Broadly, Noel Pearson believes that the provision of a fortnightly pay packet with no expectation of anything in return is killing Aboriginal people. The free ride inevitably leads Aboriginal people, including mothers and fathers, to drugs and alcohol. Social norms in Aboriginal communities are subverted. Aboriginal people are locked out of the 'real economy' and into a cycle of 'dysfunction,' abuse and early death. Grog and ganja become the problem, rather than just the symptoms of the bigger problems of dispossession and unemployment (Graham, 2010).

Let me now make good on my promise to review the current state of well-being of the First Australians. My purpose here is two-fold. I want to establish the actuality of Indigenous Australia. The word 'actuality' is chosen deliberately to indicate that as things actually are they need not necessarily be. Reality as Roy Bhaskar has argued includes the non-actualised and the non-experienced (Bhaskar, 1993). That is, there is potential within Indigenous Australia for the capacity to absent the constraints that prevent them from absencing those ills, and that the statistics reveal to be plaguing them. I make this point because I wish it to be clear that although the condition of my people is, as we shall see, quite deplorable, that does not constitute the sum total of the reality of Indigenous Australia. We are a proud people and we will rise again.

A Statistical Overview of Indigenous Non-Well Being

- The life expectancy of the First Australians is around 10 years lower than that of the non-Indigenous Australians
- In 2006 the unemployment rate for the First Australians was 16% compared with only 5% for the non-Indigenous population
- In 2004-5, 27% of First Australians were living in overcrowded conditions
- In 2006, the rate [of] homelessness for Indigenous peoples was three times the rate of other Australians
- In 2005 it was reported that 18.3 of Indigenous women experienced physical or threatened abuse in the past 12 months compared with 7% of non-Indigenous women
- Indigenous prisoners represented 24% of the total prison population in Australia in 2007 (Calma, 2009, p.2)

In terms of the contact between First Australians and the Justice system, the latest figures show that the gap in disadvantage has been increasing (Willis, 2010). Matthew Willis (2010) speculates on the impact of the exposure the justice system has on the well-being of Indigenous Australians. Little research has been done here, but it is surely relevant that Indigenous Australians reported suffering from high levels of psychological distress at twice the rate of non-Indigenous Australians. Indigenous women, between 35 and 54 years of age, were the greatest sufferers here. Their levels of psychological distress were as high as 76% (Willis, 2010).

From these stark figures we turn to the health domain. Once more the overall picture is very grim. I will take just a few of the figures from Calma's (2009) submission to the National Human Rights Consultation. Thus Indigenous Australians were three times more likely to be in hospital due to self-harming (Calma, 2009, p.28). The rate for disability was 1.4 times that of the non-Indigenous population (Calma, 2009, p.29). Moreover apart from the life expectancy short fall with white Australians, the quite shocking fact is that the life expectancy of Indigenous Australians is now worse than that of Native Americans, Aboriginal Canadians and the Maori (Calma, 2009, p.24).

If we turn to a range of statistics (Table 1.1) on communicable diseases we find that again there is great cause for concern.

Table 1.1: Communicable Diseases and Indigenous Australians (Calma, 2009, p.26-27)

Communicable disease	Detected in Indigenous peoples at...
Hepatitis A	11.7 times the rate in the non-Indigenous population
Hepatitis B	5.4 times the rate detected in the non-Indigenous population
Meningococcal infection	7.8 times the rate in the non-Indigenous population
Salmonellosis	4.3 times the rate in the non-Indigenous population
Chlamydia Infection	7.9 times the rate detected in the non-Indigenous population
Tuberculosis	1.6 times the rate in the non-Indigenous population

If we proceed from these figures to the consideration of the incidence of trachoma, then the truly terrible condition of the health of my people becomes clearly apparent. As Desmond

Manderson points out Aboriginal Australia is the only community in the developed world that suffers from trachoma, a debilitating condition that can lead to blindness (Manderson, 2008, p.257). Furthermore, outside the framework of the developed world countries such as India, Vietnam and Morocco have successfully eliminated the disease. To achieve the same result in Australia would cost a mere \$20 million dollars. Yet where is the consciousness of the need for such expenditure despite the fact that rates of trachoma among Indigenous Australians are the highest in the world (Manderson, 2008, p.258)?

If we consider the arena of mental health, where unfortunately as Ernest Hunter (2008, p.206) points out, the data is rather incomplete, we still find that schizophrenia, schizotypal and delusional disorders...[are] 2.3 and 2.5 times that expected for the population as a whole for Indigenous males and females hospitalized for disorders due to psychoactive substance use (Hunter, 2008, p.207). Hunter tells us that his experience of over sixteen years in Cape York has convinced them that there is a dramatic increase of serious mental disorders and that these are occurring at a younger age. Also of grave concern are the syndromes of foetal alcohol and foetal alcohol syndrome disorder (Hunter, 2008, p.207).

An examination of the performance of First Australians in the field of education is equally disturbing. Education is of course a key element in the Human Development Index, success in education being positively related to life expectancy and income earning capacity (Biddle, 2010, p.1; Australian Institute of Health and Welfare (AIHW), 2010, p.242). The AIHW also makes the case that poor health can affect schooling. Thus, infections of the middle ear, otitis media, are twice as common among Indigenous children as non-Indigenous children. This infection has also been established as a cause of learning difficulties (AIHW, 2010, p.244).

It is hardly surprising then, that on all the educational variables Indigenous Australia lags behind non-Indigenous Australia. Thus the national figure for attendance is 93% for non-Indigenous students, while it is 86.0% for Indigenous students. This attendance problem becomes exacerbated at the secondary level and is much worse in remote areas (Biddle, 2010).

Interestingly, the data also shows that the problem of Indigenous non-participation in education is greatest in remote towns, which do not have an Indigenous majority (Biddle, 2010, p.30). In addition to the attendance problem the data shows that Indigenous Australians trail non-Indigenous students in the areas of reading, writing and numeracy. Moreover the gap gets worse as the students get older (Biddle, 2010, p.1).

Biddle does not speculate on the reasons for this. However, he does comment that:

There is...strong evidence that a position of opposition to formal education is adopted by youth that, due to a history of unfavourable experiences, is sanctioned by the [Indigenous] community (Biddle, 2010, p.32).

It would seem indeed that:

‘The tradition of all dead generations weighs like a nightmare on the brains of the living’ (Marx, 1852).

I will deal in more detail with the question of time later in this chapter, but here I will emphasize that it will be a central and of necessity, a much iterated argument of this thesis that a radical break from the past will entail the foregrounding of the Human Rights of First Australians. In the meantime I will conclude this brief survey of First Australians well-being by pointing out that, in terms of the Human Development Index (HDI) Australia came fourth in the United Nations (UN) rankings (Biddle, 2010, p.1). However, as Biddle (2010) points out, if the HDI approach was applied to First Australians separately then the result would place Indigenous Australians somewhere above the Occupied Palestinian territories, but lower than Fiji (Biddle, 2010, p.1). Moreover, it bears repeating that the results for the First Australians population, are worse than that for US American Indians, Alaskan natives and Canadian Aborigines (Biddle, 2010, p.1; Calma, 2009).

Gregory Phillips (2003) has made an explicit and valuable attempt to ground the dismal facts of First Australians (non) well-being in psychological and historical contexts. His approach is to emphasize the role of trauma as a causal factor in First Australians addiction and alcoholism. The source of trauma is predominantly white colonialism. Phillips’ (2003) model is basically a before (pre-contact) and after (post-contact) one. As can be seen from Table 1.2 his reading of the pre-contact way of life is positive claiming a strong correlation between First Australians spirituality and well-being. The post contact category is further sub-divided into Missionary (Decentralised and Centralised) and Self-determining (Semi and Council). He employs scare quotes around ‘self-determination’ to indicate that he does not feel that it is full self-determination. His categories are as follows:

Table 1.2: Pre-contact and post-contact categorisation of First Australians (Adapted from Phillips, 2003, p.15)

	Pre Contact	Missionary Centralised Decentralised	Missionary Centralised & 1967 Citizenship	Semi Self-determining	Council 'Self-determination'
Time Period	Pre 1870	1870-1067	1967-72	1972-1980	1980 -
Effect on Human feelings/ Emotions	Independence, strong, tough, steely resolve, loving, sharing, respectful	Severe traumatisation & shaming. Pride & dignity maintained. Shame-related internalised oppression, intense grief.	Right to be citizen and rights to drink seen as same. Inhibitions re drinking discarded. Intense grief.	Shame & denial of poor coping skills; internalised oppression; pride/dignity eroding.	Anger, shame, grief: alcohol & drugs used to cope. Grief & loss due to premature/ alcohol related deaths (diabetes, dialysis, injury, suicide)
Consequences	Strong cultural & spiritual practices, healthy & balanced peoples – physically, emotionally, mentally & spiritually	Loss of parenting, family, community & life skills. Sickness & premature death. People begin to move away from practicing culture & ceremony –coerced, forced or start to believe in Christianity	Social roles destroyed, alcohol takes off as chief enabler of negative emotions to be released through violence.	Sexual, emotional & verbal abuses self-perpetuated, culture practised less & less.	Violence increases, women gradually assume more financial and leadership roles; suicides & self-harm increase; hopelessness, believe cannot make any change without others.

Family social situation	Strong, cohesive, complex, based on skin/clan groupings	Severely disrupted and weakened: Children and family forcibly removed (in chains in the earlier periods); family system gradually replaced by dormitory systems; language; culture and ceremony destroyed and criminalised; loss of access to land; sexual, emotional, spiritual, physical and mental abuses by police, missionaries and other whites; intense racism; 'dirty drunken Abo' stereotype begins.	Men's roles confused as employment decreases; begin drinking more; children forced to go away to school by missionaries /Elders.	Men's roles eroded, family breakdown & 'dysfunction' (blaming each other), children taken away because of 'unfit parenting'; families trying to find each other.
--------------------------------	---	---	--	--

Sutton (2009) would disagree with Phillips' characterisation of pre-contact First Australians well-being. Certainly Phillips gives no evidence for his claims. Nevertheless there is the retroductive argument from the empirical fact that first Australian society survived and flourished for millennia. What kind of society could have accomplished that feat? I would argue only one which bore a close resemblance to Phillips' descriptions.

Phillips' (2003) work has to be understood in terms of his attitude towards time. He works from the assumption that the people whose sickness and medical problems he deals with have been traumatised by the experience of colonialism. There is then the experience of a past in the present. Again like the argument for the necessity of and desirability of Human Rights, one would have thought that this is a fairly uncontroversial matter. However, the History Wars of the Howard era and especially the recent work of the revisionist historian Keith Windschuttle allied to the 'no-excuses' agenda of the Cape York Institute have resulted in a tendency to either deny (Windschuttle, 2004; 2008; 2009) or to disregard (Pearson, 2000; Sutton, 2009) the impact of the colonial past on the present. Pearson and indeed Sutton's attitudes towards the past can possibly be understood in terms of the general eclipse of time by spatial notions in postmodernist thought (Bhaskar, 1993, p.257). It is an eclipse which I am not at all in sympathy with, not least because as Bhaskar points out it leads to a fetishization of the *status quo* (Bhaskar, 1993, p.257). By contrast it is the position of this thesis that Phillips (2003) is correct and the present condition of Indigenous Australia can only be properly understood if one takes into account the past.

Outline of the Thesis.

Chapter Two undertakes the task of laying a methodological basis for the thesis. Here I draw upon a range of Critical Realist and other concepts to ground the narratives and also to motivate my engagement with other writers.

Chapter Three advances a personal narrative which positions their lived experience of my family and me, within the context of First Australians wellbeing in the 21st century. This chapter can also be understood in terms of an attempt to follow the protocols of Indigenous research and writing where a personal narrative is both expected and held to be essential to the process of truth telling (Sarra, 2005).

Chapter Four begins the process of engagement. I endeavour to both characterise and address the main features of the *zeitgeist* that dominates the current conjuncture. Crucially important, here is an engagement with the thinking of the historian Keith Windschuttle. I have chosen him because of his influence and because his project, the glorification of colonialism, runs so counter to my own.

Chapter Five continues the process of engagement. I have chosen to address in a critical and even polemical fashion two of the most important figures in contemporary thinking around First Australians issues –the anthropologist, Peter Sutton, and the first Australians Lawyer and intellectual Noel Pearson. If the concern of the former is of first Australians culture as a problem, the latter has lately chosen education as his principal field of operation. This chapter is meant to be a contribution to the ‘education wars’ which have raged largely without a contribution from an activist or a Human Rights perspective.

Chapter Six continues the emphasis on education as a vital arena for the struggle to contest colonisation and as such, it seeks to further my contribution to the ‘education wars’. To set the scene here, I draw upon recent writings on the history of the education of Native Americans. In particular, featuring the debate between Captain Pratt and Samuel Chapman Armstrong over the educability or otherwise of the Native Americans. It is my contention that this same debate has been played out here in Australia.

Following this discursion into the domain of First Nations peoples Education in the United States, I return to Australia and examine firstly Paula Shaw’s account of her teaching in Aurukun. This is followed by an at times polemical review of the work of Gary Johns, of the Bennelong Society, and Helen and Mark Hughes of the Centre for Independent Studies.

Chapter Seven addresses some of the key theoretical and political issues associated with the notion of Human Rights. I seek here to argue for the importance of Human Rights and to give an account of how they might be grounded in a notion of human worth.

Chapter Eight consists of a number of important case studies. I take the Hindmarsh Island saga, the Battle for a Bill of Rights in Australia and the Federal Intervention into the Northern Territory. My intention here is to show that in each case, the rights of the First Australians were either infringed or set aside to the long term detriment of this country

Chapter Nine continues the case studies, but here I move to the level of the individual. I have chosen three people whose rights I will argue have been compromised by three key institutions. The first of these is education and the individual is the First Australian Elder, May Dunne. Next I will consider the fate of my nephew Lyji Vaggs who died in the custody of those charged with looking after his mental health. Thirdly, I will outline the story of the first Australian leader Lex Wotton and I will seek to show how his rights were infringed by the Criminal justice system.

In **Chapter Ten**, the **conclusion**, I will of course attempt to wrap up the main themes of this thesis, but I will also seek to address what Tim Rowse (2003) has called some of the counterfactuals of the relationship between Indigenous and non-Indigenous Australians.

Conclusion

This chapter has established the research question - How important is the notions of social justice and Human Rights in the emancipation of First Australians? It has provided some of the contextual background of the thesis which will be expanded in the following chapters. The next chapter introduces the important conceptual frameworks that have informed the methodology. In particular, it draws from Bhaskar (1993) Critical Realism concepts, qualitative research and the narrative, and describes how this relates to Indigenous and non-Indigenous Australia.

Chapter 2. Methodology

This chapter aims to set the methodological tenor for my thesis. It will seek first to ground a methodological defence of Human Rights and to return again, contra Hayek, to the necessity for a politics of social justice. To defend the centrality of Human Rights in Aboriginal Affairs, I will draw upon the Bhaskarian concepts of explanatory critique and the concrete universal (Bhaskar, 1993). Then I will turn to the radical priest, the late Ted Kennedy of Redfern (Kennedy, 2000). This engagement with the life and thought of Fr. Kennedy will in effect constitute a moral critique of Hayek. Following this I will follow Gary MacLennan and Mari Mitropoulos (2000), and Chris Sarra (2005) in their differentiation of the concept of 'the Other' to lay the basis for a radical politics of recognition.

Central also to my methodology will be the choice of a qualitative approach based on a series of narratives that will radiate out from my own story to that of my family and also my people. This thesis will be anchored by a personal narrative which will endeavour to show and tell how I came to this time and this place, and how my outlook on life has been influenced by my activism and my life experience. The choice of a qualitative approach is due to an acknowledgment that it is particularly suited to my purpose of description, explanation and argument rather than quantitative confirmation; though of course this thesis has begun with an empirically based attempt to document the extent of First Australians non-well-being.

Narrative Methodology: Narrative Purpose

In a fascinating review of the literature on the May 13 1925 massacre in China, where soldiers under British command opened fire on protesting students, killing 14 and wounding many more, Daniel Fried (2004) points to the tendency for the Communist narratives of the event to eschew the detail of the killings and instead incorporate the events into wider schemas. These were initially the anti-imperialist struggle and then the struggle of the proletariat.

Fried (2004, p.44) describes this as 'directly tied to the leftist need to stress ideology over particularistic detail'. However the impulse here is as much Hegelian as Marxist. It was, after all, the Hegelian inclination to incorporate the detail into the grand narrative. It was this that enabled Georg Wilhelm Friedrich Hegel (1956) to pose the question:

But even regarding History as the slaughter-bench at which the happiness of peoples, the wisdom of States, and the virtue of individuals have been victimised — the question involuntarily arises — to what principle, to what final aim these enormous sacrifices have been offered (Hegel, 1956, p.35)?

His answer to his own question was:

This may be called the *cunning of reason*, — that it sets the passions to work for itself, while that which develops its existence through such impulsion pays the penalty and suffers loss. For it is *phenomenal* being that is so treated, and of this, part is of no value, part is positive and real. The particular is for the most part of too trifling value as compared with the general: individuals are sacrificed and abandoned. The Idea pays the penalty of determinate existence and of corruptibility, not from itself, but from the passions of individuals (Hegel, 1956, p.47).

Here Hegel (1956) sees history as the rational process of the unfolding of the Idea. Within this system the individual is of little concern, merely a necessary part of a greater and more significant process, to be chewed up and spat out. I on the other hand cannot think of the slaughter bench on which so many of my people were sacrificed as being the work of reason. Nor can I view what happened to the old people as being ‘for the most part of trifling value’. Rather I choose to frame the narratives of my people within the view of history outlined by Walter Benjamin (1974).

In his theses on the philosophy of history he speaks first of our relation to the past. It and not the future is our source of envy in terms of the people who are gone but with whom we may have been happy. This ties happiness up with the notion of the resurrecting of the past. But this is a two way relationship, the dead or the old people, as we Murries name them, have a call on us. We are to keep their memory alive and to redeem their suffering. Benjamin (1974) puts this in terms of the Jewish concept of the Messiah, the promised saviour. He writes, beautifully in the second thesis:

The past carries a secret index with it, by which it is referred to its resurrection. Are we not touched by the same breath of air which was among that which came before? Is there not an echo of those who have been silenced in the voices to which we lend our ears today? ... If so, then there is a secret protocol between the generations of the past and that of our own. For we have been expected upon this earth. For it has been given us to know, just like every generation before us, a *weak* messianic power, on which the past has a claim. This claim is not to be settled lightly (Benjamin, 1974).

I take this injunction to remember the past seriously. For me it is the essence of what it is to be one of the First Australians of this country, and it is no small part of the motivation for this thesis.

At a recent seminar my Auntie Renata, one of the last native speakers of my language, Birri-Gubba, spoke of how the old people kept their language alive by waiting until after the missionaries, who forbade them to speak it, had gone to bed (Auntie Renata, personal communication, 21st July, 2010). For my Auntie Renata keeping the language alive is keeping faith with those old people. My narratives too will be related with that purpose and in that spirit.

The figure I like to evoke here comes once again from Walter Benjamin (1974). It is his Angel of History from his ninth thesis, which he wrote in response to a meditation on a Klee painting. I give the painting and the thesis in full, because they encapsulate so well not only what is in my heart, as I write this dissertation, but also what I think about those who would narrate the story of the destruction of my people as an act of historical progress.

There is a painting by Klee called *Angelus Novus*. An angel is depicted there who looks as though he were about to distance himself from something which he is staring at. His eyes are opened wide, his mouth stands open and his wings are outstretched. The Angel of History must look just so. His face is turned towards the past. Where *we* see the appearance of a chain of events, *he* sees one single catastrophe, which unceasingly piles rubble on top of rubble and hurls it before his feet. He would like to pause for a moment so fair to awaken the dead and to piece together what has been smashed. But a storm is blowing from Paradise, it has caught itself up in his wings and is so strong that the Angel can no longer close them. The storm drives him irresistibly into the future, to which his back is turned, while the rubble-heap before him grows sky-high. That which we call progress, is *this* storm (Benjamin, 1974)

Picture 2.1: Klee's *Angelus Novus*



Source: <http://people.pwf.cam.ac.uk/egk10/notes/postmodernism.htm>.

We have already seen in the first chapter of this thesis that there are many indeed who would like us to believe that the dispossession of the First Australians and Torres Strait Island people does constitute progress – a wind blowing from Paradise. I refuse such brutal thinking and instead turn to the narratives that tell of suffering and the denial of Human Rights. It is here I would like to address the theoretical question of the truth and objectivity of such narratives.

Truth and Objectivity in Narratives

It is by now reasonably well accepted that the writing of history involves the telling of narratives. Some historians such as Peter Cochrane have taken the argument here in a quite radical direction (Ferrari, 2008). Thus he has attacked the ‘narrow and legalistic’ conception of history as represented by Keith Windschuttle. Cochrane wants instead a history which is ‘vivid, creative, imaginative [and] it has to squeeze every ounce of historical juice out of the record’ (quoted in Ferrari, 2008). I have a good deal of sympathy with Cochrane’s praise of the role of narratives in history, provided that one avoids postmodernist scepticism about the truth. Accordingly I have resorted to the use of personal narratives and oral testimony.

I am conscious here of course of the current arguments around the methodological status of oral testimonies and autobiographies. Thus Rosanne Kennedy (2000, p.49) mentions the objections from psychoanalysts who insist that trauma cannot be directly represented. However as Tim Büthe (2000, p.486) points out narratives provide contexts and also ‘allow for the incorporation of sensitivity to unique events’.

For their part postmodernist theorists have inveighed against the possibility of a text referring to anything outside itself. Jacques Derrida’s (1976, pp.158-159) notorious ‘il n’y a pas de hors-texte’ comes to mind here. Equally important for postmodern thinking has been Friedrich Nietzsche’s radical scepticism as expressed memorably in the following:

What then is truth? A mobile army of metaphors, metonyms, and anthropomorphisms -- in short, a sum of Human relations, which have been enhanced, transposed, and embellished poetically and rhetorically, and which after long use seem firm, canonical, and obligatory to a people: truths are illusions about which one has forgotten that is what they are; metaphors which are worn out and without sensuous power; coins which have lost their pictures and now matter only as metal, no longer as coins (Nietzsche, 1954, pp.46-47).

So those then who would supply testimonies are trapped between the sceptics who say it is impossible to tell the truth and those who say that testimonies are not objective enough to convey the truth. Despite this I cling to the old fashioned notion that the truth matters.

Moreover in methodological terms, I have been greatly encouraged firstly by the urging by Helene Cixous (1976) that women must write themselves. In addition the work of the medical anthropologists Paul Farmer (1988; 1996; 2008), Farmer and Arthur Kleinman (1989), Farmer and Yong Kim, (1998) and Peter Benson (2008) has demonstrated convincingly, I would argue, the value of narrative and biographical anecdote in the analysis and comprehension of complex social phenomena such as the epidemiology of AIDS and tuberculosis. Thus to explain the horrors of the suffering of his patients in Haiti, Farmer (1996) begins with the concretised singular and always haunting biography and then proceeds to go deep historically, broad geographically and to hold simultaneously in place the social axes of gender, ethnicity and socioeconomic status (Farmer, 1996, pp.274-278). The aim is to achieve an approach

...that is committed to ethnographically embedding evidence within the historically given social and economic structures that shape life so dramatically on the edge of life and death (Farmer, 2004a, p.312).

Also influential on my approach has been the approach of the micro-historians (Ginzburg, 1993; Magnusson, 2003; Zambelli, 1985). Zambelli (1985, p.984) has urged the importance of the literary for historical understanding. I take that as a justification for the personal narrative and the biographical approach especially of my father's experience in being 'removed'. So just as the American Civil War historian Stewart attempted to understand the war through the microscopic analysis of a single event, the charge of Pickert's men at Gettysburg, (Ginzburg, 1993, pp.11-12), I too wish to prioritize the personal detail.

One such detail for example is the embroidery my mother worked on the hessian curtains. For me that shows the human spirit was strong in her. Always striving to absent the ills that plagued her life, she would beautify everything she touched.

Another instance is provided by the story of the great First Australian activist Mum Shirl being refused communion. The priest claimed, when she challenged him, that he could not be sure that she had made her First Communion (Campion, 2009, p.93). Mum Shirl however knew that the reason why she was refused communion was that she was a First Australian. Ted Kennedy, in his great polemic against Cardinal Pell, highlights the rejection of Mum Shirl as yet another occasion when the male clerics usurped the right of God to judge who was or was not worthy (Kennedy, 2000, pp.61-62).

For me that one callous act not only wounded Mum Shirl deeply it also serves as a metonym for the racist rejection of my people. So although I would not follow Magnusson (2003) in his post-modernist refusal of meta-narratives, I remain convinced, like the micro-historians that

God is in the detail (Ginzburg, 1993, p.27) and in the detail of the suffering of my own family can be found a contribution to the understanding of the lived experience of the First Australians.

The inner logic of micro-history stems from a belief that it is only when we truly see someone up close that we recognise their humanity and in the recognition make an ethical response. By contrast the cognitive response must come from what Kracauer called the long shot and the 'web of interpretation' (Koch, 2000, p.4). To fully comprehend something, we must move away from the detail or the 'thing in itself' to the long shot or the level of abstraction. However while the artistic is tied to the concrete the ethical has a more complex relationship with the detail. A true ethical response contains, I think, a commitment to the cognitive, a will to understand.

Ginzburg (1993) gives us an important contrast between the kind of micro history which he wishes to write and postmodernist historiography. The writer he cites is Ankersmit (Ginzburg, 1993, pp.31-34). The latter is of course influenced by the 'onlie begetter' of postmodernist history, Hayden White (1974). The metaphor used by Ankersmit is of the examination of a tree:

Traditional historians had busied themselves with the trunk and the branches while postmodernists are preoccupied with the leaves in themselves and not in relation to the rest of the tree. So we have the history of the fragments. The object of this study is it seems neither to know the past, nor to make value judgements about it but to discover the significance of the fragments for the present (Ginsburg, 1993, p.31).

Ginzburg (1993) does note the problem of moving from the level of the detail to that of the generalised concept. It is here, as I hope to show, that the Bhaskarian notions of alethic truth, explanatory critique and the concrete universal are particularly useful.

This conviction puts me at odds with several schools of thought. I have already mentioned neo-Nietzschean postmodernists, a point to which I will return when I examine the relationship of poststructuralist thought to ontology. But the neo-positivist school of thought, especially in the Australian context by Keith Windschuttle (1994; 2002; 2009, See Chapter Four), is opposed to thinking beyond the correspondence model of truth which relies upon the unproblematic finding and enumerating of facts.

Ginzburg (1991, pp.83-84) in his discussion of the evidential basis of historiography addresses the problem of the fall-out from the hostile relationship between poststructuralism and positivism. He argues that for the last twenty-five years the reaction to positivism has led to the abandonment of words like proof or truth. He maintains, though, that to give up the notion of referentiality is to commit a kind of 'inverted positivism'. With positivism evidence is regarded as a simple window

on reality, whereas with the ‘theoretical sophistication’ of poststructuralism, evidence is regarded as a ‘wall’ shutting off access to reality. For Ginzburg (1991) the sceptic and the positivist, while seeming to oppose each other, ‘both take for granted the relationship between evidence and reality’ (Ginzburg, 1991, p.83).

The alternative is to view evidence as consisting of two types, the voluntary e.g. a photograph or a film and the involuntary e.g. a skull or a footprint. In the case of voluntary evidence it is essential to develop an interpretive framework which ‘must be related to... the specific code according to which the evidence has been constructed’ (Ginzburg, 1991, p.84).

Ginzburg (1991) stresses, nevertheless, that the analysis and evaluation of evidence must be both internal and external. Thus ‘the fashionable injunction to study reality as a text should be supplemented by the awareness that no text can be understood without a reference to extra-textual factors’ (Ginzburg, 1991, p.84).

The positivist approach is strongly based on the correspondence model of truth which revolves around notions such as the proposition ‘The door is open’ is true if the door is in fact open. At this level the model works very well. However if the propositions become more complex as in, ‘The stealing of children from their Aboriginal parents was morally wrong’, then the correspondence model ceases to be of much use.

In *Dialectic: the pulse of freedom*, Bhaskar (1993) unveiled his model of the truth. This as one would expect was firstly ontological, that is, it was based on the assumption that there was a reality independent of our descriptions of it. That makes Bhaskar’s approach different from those accounts that say we create the truth in our accounts. Secondly Bhaskar’s truth model was, again as could be expected in a Critical Realist approach, a stratified model, that is, it consists of levels. He wrote:

“An adequate theory of truth must take account of the fact that there are four basic concepts of it, or components in its analysis:

(α) truth as *normative-fiduciary*, truth in the ‘trust me — act on it’ sense, in the communicative sub-dimension of the social cube;

(β) truth as *adequating*, as ‘warrantedly assertable’, as epistemological, as relative in the transitive dimension;

(γ) truth as *referential-expressive*, as a bipolar ontic-epistemic dual, and in this sense as absolute; and

(δ) truth as *alethic*, as the truth of or reason *for things* and phenomena, *not propositions*, as genuinely ontological, and in this sense as objective in the intransitive dimension.

I have already labelled these moments as the ‘truth tetrapoly’” (Bhaskar, 1993, pp. 217-218).

By the **first level** Bhaskar means that truth is part of communication. I write this thesis and I have in mind a particular reader. I address her and ask her to trust me, to believe in what I say and of course to take action which is compatible with what I say. So when I describe how my father “experienced nothing less than the deliberate destruction of culture – of stories and songs and oral histories, the deliberate dismantling of families and the rape or abuse of women to ‘water-down blackness’, I want the reader to believe I am not lying. These things happened and we should act to make them impossible ever again. Here my argument is that the granting of human rights will help prevent such atrocities, is obviously relevant.

By the **second level**, Bhaskar means that our truth claims have to pass the test of assertability. For instance the statement “the moon is made of green cheese”, intuitively fails that test, that is, there is no warrant at all for asserting that the moon is composed of green cheese. So in epistemological terms the statement is untrue. Therefore in epistemological terms we have the knowledge that there is no moon made up of green cheese out there in space.

By “relative in the transitive dimension” Bhaskar means that all our knowledge is relative. We make a statement and then further investigation is needed to uncover the reasons for that. The subsequent growth of knowledge in terms of the uncovering of more layers of reality can show our previous statements to be untrue, though we may have had good reasons for believing them.

It is the claim of this thesis that my truth claims pass the test of warranted assertability. My claims of massacres, forced removals, rapes and deprivation of rights are intuitively believable in the context of colonial conquests. For instance what happened to my people also happened to those Indigenous people who were unfortunate enough to be “discovered” by the *conquistadores*.

The **third level** of Bhaskar’s truth model tells us that truth claims refer to something out there if you like. Bhaskar uses the example of “The grass is green” (1993, p. 319). By this sentence I am giving expression to a claim about an entity known as grass I am claiming it is “green”. So the claim is absolute in the sense that I am not saying the grass is green and also red. For instance when I say “Elvis is dead”, I am absolutely ruling out the possibility that he may also be still alive.

The **fourth level** of Bhaskar’s truth model is claimed as his “second great discovery” (1993, p. 200). This is he says, “a genuinely ontological notion of truth” (p. 200). When we achieve the alethic level we have the reason for things not simply propositions. If we return to our “grass is

green” claim, we will have reached alethia if we know why the grass is green by establishing the wave length at which it reflects light. Thus Bhaskar writes “the pen with which I am writing is blue (it reflects light of the wavelength 4400A” (1993, p. 236).

MacLennan (1997, n.p.) utilizes the example of the discovery of neuroleptic medication by Laborit and Delay to illustrate the process of how Bhaskar’s truth model works in the real world. Laborit persuaded Delay to trust him and try out his drug on his patients. The result was the beginning of the era of the use of drugs in psychiatric hospitals. MacLennan also notes that we do not yet know the reason why the drugs work, that is, we have not achieved alethia. This may constitute, as MacLennan believes, part of the basis for the resistance to the use of neuroleptic drugs.

Here the movement has been from Laborit’s subjective certainty (this drug works) to intersubjective facthood (Both Laborit and Delay agree.) What is missing is as I have said alethic truth (Bhaskar, 1993, p. 218).

If we return to the world of Indigenous Australia, let us take the example of an Aboriginal man lying drunk, say in the main street in Alice Springs. I say “There is an Aboriginal man lying drunk in the main street”. I am subjectively certain that I have seen an Aboriginal man lying drunk in the street. I convince you that this is true, possibly by pointing out to you the man or by showing you television pictures. We reach intersubjective agreement. How though might we reach the alethic level? How can we discover the reasons why the man is lying drunk on the street? I would argue that is chiefly through an understanding of the history of Australian colonialist relations that one reaches alethia and understands the reason why the man is drunk on the street.

I might by the way point out the political importance of this insistence on finding the reason for things.

Truth and the Photograph as Evidence

Throughout this thesis I have used photographs both to support the text and as evidence of the lived experience of First Australians whose rights have been denied. Some theoretical justification of this practice is needed. John Tagg (1988, pp.1-4) begins his assault on the notion that a photograph bears any simple relationship to a prior reality with a consideration of Roland Barthes’ writing in *Camera Lucida* about the truth of the photograph. There Barthes takes up a realist position that:

The important thing is that the photograph possesses an evidential force, and that its testimony bears not on the object but on time. From a phenomenological

viewpoint, in the Photograph, the power of authentication exceeds the power of representation (quoted in Tagg, 1988, p.1).

Tagg (1988) ascribes Barthes' 'demand' for realism to his grief over his mother's death. *Camera Lucida* does indeed recount how Barthes searches for a photograph of his mother which would 'be both justice and accuracy -justesse: just an image, but a just image' (Barthes, 1981:70). Barthes relates how he finds this image- the 'Winter Garden Photograph'. But such is the strength of the feelings aroused by the photo of his mother as a young girl that he cannot reproduce it for us. For us it would be, he claims, 'nothing but an indifferent picture' for him it is a 'wound' (Barthes, 1981, p.73).

Barthes also tells us how he decided 'to 'derive' all photography (its 'nature') from the only photograph which assuredly existed for me', that is the photograph of his mother. The essence then of the photograph for Barthes is to attest to what has already existed and to render the past as 'certain as the present' (Barthes, 1981, p.88)

Tagg (1988) will have none of this. He argues:

The trauma of Barthes's mother's death throws, Barthes back on a sense of loss which produces in him a longing for a pre-linguistic certainty and unity- a nostalgic and regressive phantasy, transcending loss, on which he founds his idea of photographic realism: to make present what is absent or, more exactly, to make it retrospectively real- a poignant 'reality one can no longer touch' (Tagg, 1988, p.4).

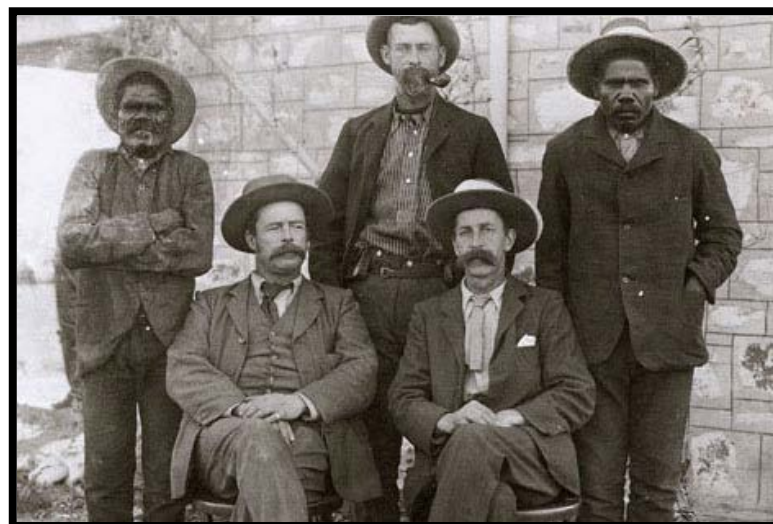
I think Tagg here avoids the problem. For me for example part of the horror and (fascination?) of a text such as Tom Joslin's record of his own death from AIDS his film, *Silver Lake: the view from here* was that there on the bed was the skeleton, the wreck of a real person, something that I have seen all too often in my nursing career. Moreover this was not simply a patient, but a person whom I had watched wither and decay for over an hour. Though I have seen many terrible things in my life as a nurse and have worked extensively in AIDS prevention and treatment, I was still shocked beyond words and comfort by the decay of such a bright and brave young gay man. My own death and the death of all I love and many of the people I have nursed seemed to me to be there on the screen. I do not think I could have been moved to such an extreme of emotion by reconstructions. I do not know if this is true. But always with the reconstruction is the defence that 'this is not real'. But in Joslin's (1993) film we get the immediacy- the undeniable reality of the fact that there was a man called Tom Joslin and he died slowly and dreadfully from AIDS.

The film did spare us some of the actual horror of AIDs. We didn't for example get to see the vomit and the shit. For that I was grateful when I viewed it, for I could not have protected myself from watching it. Perhaps the film artistically was too much of a chronicle. There wasn't enough shaping. Perhaps here we lacked the 'cool web' for it to function at all therapeutically. For with all art to write about something no matter how bad it is to implicitly suggest a solution or at least the beginnings of a thought about a possible solution, because Art is really work on the world and so is intrinsically empowering. Yet, with Barthes and his Winter Garden picture, Joslin's film for me, is 'the dead theatre of death, the foreclosure of the tragic, exclud(ing) all purification, all catharsis' (Barthes, 1981, p.90).

Rising over all this is the film's claim to truth. Like the film of the bashing of Rodney King or Zapruder's shots of the Kennedy assassination, it is the undoubtedly evidential nature of the text that gives it its power to disturb. It is for me an *in extremis* example of the special claim of the documentary to truth. And thus poses a problem which cannot be dismissed as Tagg does Barthes' similar claims. Barthes' grief is palpably real but then so is the claim of the photograph. Neither the poststructuralist option of simple scepticism nor the equally reductionist reflectionist solution of the positivists is available here.

To see the relevance of an approach to the photograph as evidence let us consider the following photographs.

Picture 2.2: Francis J. Gillen (front left) and W. Baldwin Spencer (front right) at Alice Springs, Northern Territory, in 1901. The men in the back row are (from left) Erlikiliakira, Mounted Trooper Chance and Purula



Source: Ashenden, 2010b

Looking at the photograph above I am struck by the contrast between the First Australian men and the Europeans. My people stand awkwardly in their shabby western clothes. A mere century before they would have been naked and proud. But the white man constructed that as a

sign of backwardness and depravity and so they stand clothed but diminished in their hand-me-downs. The trooper between them strikes a confident pose. In the front the 'gents' are relaxed and totally at ease. The white men appear to be at home, yet they are in the country of Erlikiliakira and Purula, but the body language of the First Australian men tells us that the dispossession is almost complete.

It is instructive to compare the above photograph with John Berger's justly celebrated reading of August Sander's 1914 photograph of Three Farmers.

Picture 2.3: Peasants dressed in 'civilised' clothes



Source: Berger 1980

Berger (1980) points out that these are peasants who would once have been dressed quite differently. But they have been somehow persuaded to wear the clothes of the 'civilised'. At the very most Berger points out these young men are the second generation of peasants to abandon traditional peasant garb and to take up suits.

The young men think that they are 'smart' or 'cool' in modern parlance. After all they are it seems on their way to a dance, but what they demonstrate above all is the victory of the modern world over that of the peasant. As Berger (1980) points out the photographs reveal rather than conceal the social class of the young farmers (Berger, 1980, pp.27-36). A similar manoeuvre is recorded in the photograph featuring Gillen and Spencer. The First Australians may have taken to wearing suits but the photograph records unerringly that the suits deform them. They do not belong as equals in the world of Gillen and Spencer and the photograph shows it.

To make the contrast absolutely clear, see the photograph below taken by Baldwin Spencer in 1901. For me it shows all too clearly what my people were to lose through their contact with the White man. The Marra and Yanyuwa men stand out proud and strong. They have not yet had the good fortune to be 'civilised'.

Picture 2.4: A group of Yanyuwa and Marra men who share a camp by the Macarthur River, Dec. 1901. Photograph Baldwin Spencer.



Source: Museum Victoria.

Poststructuralist/postmodernist Thought and Ontology

I think there are three main kinds of secreted ontologies within the poststructuralist problematic.

A] An ontology of endless flux. This can be traced to Fragment 41 of Heraclitus where he famously says:

You cannot step twice into the same rivers; for fresh waters are ever flowing in upon you (Heraclitus, quoted in Warner, 1958, p.26).

Nietzsche follows this ontology especially in *The Gay Science*. There he uses it to assert that explanation is impossible because we have to invent categories to describe the shapeless flux (Nietzsche, quoted in Hollingdale, 1977, pp.58-62). It is also the source of all those endless plurals that litter poststructuralist writing. It is in addition dependent on the argument that categories are not real.

B] Linguistic ontology.

This position argues that reality is created through language. This fundamentally is the position of discourse and queer theory. There is a half a truth in this when it comes to social reality. For

instance Chris Sarra's (2005) thesis looks at how false beliefs about First Australians have efficacy and are thus real.

I think, however, that the pendulum is swinging against the linguistic construction of reality especially with the advance of biology. Richard Rorty (1989) would seem to be the leading exponent of the linguistic ontology. He argues in effect that we can choose our reality by giving it a better description- sort of design your own reality. The corollary of this is that if you are living a horrible reality you have not taken the trouble to design a better one. There is a sense in which Derrida's famous 'Il n'ya pas de hors-texte, car il n'ya rien hors du texte' is also an example of the linguistic ontology or as Bhaskar (1993, p.206) would say 'linguistic fallacy'.

C] There is no reality

This can merge into and emerge out of solipsism. However it principally shows itself when conference papers come to you with the word reality in scare quotes.

Of course the ancestry of solipsism is very venerable going back to David Hume, Bishop Berkley and beyond. My favourites here are not so much Dr. Johnson's famous kicking of the stone and saying 'I refute it THUS' of Berkeley's scepticism (James Boswell, 1917), rather I love the famous Ronald Knox Limericks quoted in Bertrand Russell's *History of Western Philosophy*. John Lewis (1968) gives us the background. To the objection that if a thing ceases to be perceived it is no longer anywhere, Berkeley replied that God always perceives everything. 'If there were no God, what we take to be material objects would have a jerky life, suddenly leaping into being when we look at them'. As it is they have a continuous existence owing to God's perceptions (Lewis, 1968 p.54).

Russell proceeds to quote Ronald Knox's limericks which admirably set forth the idealist case:

There was a young man who said, 'God
Must think it exceedingly odd
If he finds that this tree
Continues to be
When there's no-one about in the Quod.'

To which the Berkeleyan reply:

Dear Sir, Your astonishment's odd,
I am always about in the Quod.
And that's why the tree

Will continue to be,
Since observed by
Yours faithfully,
GOD (quoted in Lewis, 1968, p.54).

Narrative and the Objectivity Problem

One of the difficulties of using a narrative methodology, especially one which is based around a personal life story, is that one immediately comes up against the allegation that one is being personal or too subjective. There is a theoretical confusion at work here and I hope to use Bhaskar's critical realism to expose and transcend it.

In a footnote Bhaskar (1993) has the following to say about objectivity:

“There is a multiple ambiguity in the term ‘objective’ as it appears in Kantian and associated studies. It can mean (a) existentially independent of human beings (i.e. an object), (b) intersubjectively constituted (i.e. a reproduct/transform such as a fact), (c) (quasi-)phenomenally constituted, (d) impersonal, (e) abstract, (f) the intentional object of our sensory awareness or (g) just the antonym of any sense of ‘subjective’ (Bhaskar, 1993, p.325).”

The key to understanding this footnote is to grasp that Bhaskar is pointing to a fundamental contradiction in Kantian thought. Kantians are unsure whether to locate objectivity in the noumenal (meanings (a) and (f)) or the phenomenal realm (meanings (d), (e), and (g)). In the end meanings (d), (e), and (g) tend to win out and so we get objectivity reduced to the supposed necessity to avoid subjective language, including a proscription on the use of the first person pronoun and the like need for ‘balance’ in recounting what has happened. On the contrary the relationship between the subjective and the objective has to be understood differently. As Bhaskar points out without the objective manifold there would be no subjectivity (Bhaskar, 1993, pp.271-272). Moreover we are being objective when we are uncovering the alethia of things. To do that we do not need to be impersonal.

MacLennan (2000) used an example of Isaiah Berlin's famous comparison about Nazi rule in Germany. However, I will modify this by using as example the consequences of the British invasion of Australia. Consider the following sentences:

- a) Australia was colonised.
- b) First Australians died.
- c) First Australians were killed.
- d) First Australians were massacred.

All of these statements are true. However although d) is the least objective in the sense of 'impersonal', it is nevertheless the only sentence which is an adequate description of what happened when the British invaded. Therefore, in the Bhaskarian sense it is the only sentence which is objective.

An analogous point is made here by Wulf Kansteiner (2009) in his discussion of Hayden White's work on historical methodology. Kansteiner (2009) supports White's comments on Primo Levi's description of his suffering in Auschwitz. White argues that although Levi's account is factual in the sense that he did not invent details or persons. However, the power of the work comes not from the litany of facts but because Levi's text enables us to feel something of what it would have been like to have been in Auschwitz. So it is the resort to the figurative, the expressive and the poetic that conveys the alethia of the concentration camp (Kansteiner, 2009, p.32). Yet this is precisely the kind of writing that would be proscribed by Kantian notions of objectivity.

Social Justice and the Rights of First Australians and Torres Strait Island people: Who is Worthy?

The historian Edmund Campion (2009) in his biography of Fr Ted Kennedy, tells how Kennedy who was writing a book critical of John Bede Polding (1794-1877), first Archbishop of Sydney, broke off his research and commenced writing *Who is Worthy?* in response to Cardinal Pell's denial of communion to a group of gay protestors (Campion, 2009, pp.148-149). Kennedy's book is an impassioned defence of an alternative vision of Roman Catholicism and one that seemed to have gained much ground at the Second Vatican Council (1962-5) but which lost out in the subsequent decades.

Part of the vision of the alternative church that Kennedy represented was based on a clear commitment to social justice. The saying of Jesus 'Blessed are the destitute' as recorded in the Gospel according to Thomas (Crossan, 1994, pp.61-62) was taken literally by Kennedy and his co-worker Mum Shirl of the Wiradjuri people. It is the sincerity and depth of their commitment that helps to explain the anger that Kennedy showed towards Cardinal Pell when he said in an interview with the Bulletin:

I have spoken on occasion but we don't have of the Wiradjuri people a lot of Aborigines in this State [Victoria] (Pell quoted in Kennedy, 2000, p.89).

Here Kennedy goes deep historically to explain the comparative absence of First Australians in Victoria. This of necessity involves relating the history of brutal massacres often unrecorded and almost all covered up with the 'great white tranquillising drugs, the dirty secret of silence and the downright lie' (Kennedy, 2000, p.89).

From this initial attack Kennedy goes on to discuss the case of Archbishop Polding. He is taken as a paradigmatic instance of the Catholic Hierarchy. He made some good statements but only under pressure or when it was politically advantageous to do so (Campion, 2009, pp.144-145). For Kennedy the truth of Polding's attitude towards First Australians lay in his failure to support the Italian missionaries on Stradbroke and above all in his kidnapping and sending off to Italy the young First Australian boy John David Murra. The latter was to die in Genoa soon after been sent there by Polding. Kennedy calls this a death in custody and an 'appalling atrocity' (Kennedy, 2000, p.102).

From this verdict on Polding, Kennedy proceeds to indict the entire Catholic hierarchy for indifference and neglect of First Australians. He notes the supportive statements that came from Rome were not matched by any true commitment on the part of Australia's Catholic leaders. Thus he tells us that from 1940 to 1966 the Social Justice statements issued by the Bishops made no reference to First Australians. Nor did they take a position on the 1967 referendum which granted citizenship to Australia's first people (Kennedy, 2000, p.105).

Kennedy ends his polemic as he began with another shot at Pell's attitude towards the First Australians. Kennedy points out that he is not calling for increased welfare for First Australians. Rather he seeks that Pell recognize the spiritual value of First Australians. Kennedy urges the then bishop to see

...what spiritual treasures the Aboriginal people can offer him that his own inner liberation is bound up with theirs (Kennedy, 2000, p.107).

The importance of Kennedy and his book for my thesis is that in his life and in his writings he gave us a paradigm for a totally moral relationship between white and black Australia. Moreover Kennedy combined support for First Australian land rights and self determination with an absolute commitment to the care of the people of Redfern. In so doing he provides a means of rejecting the dichotomy which, as we will see in Chapter Five, Sutton (2009) seeks to draw between caring for First Australians and supporting their human and political rights.

This difference becomes very clear when Sutton (2009) speaks of the:

...political glamour attracted by those who struggle for rights and justice has long outshone the small glow emitted by those who are in the coalface caring business, the ones who dress the wounds of battered women in remote area clinics, or who work to get petrol sniffers back on track out in the Tanami Desert in the ferocious heat of February (Sutton, 2009, pp.11-12).

I will leave aside the smear about 'political glamour' and repeat that Ted Kennedy and Mum Shirl fought for First Australian rights and also worked tirelessly to care for all those who suffered from the scourges of poverty. For them there was no contradiction in recognizing the political rights of First Australians and in caring for the people in all their suffering.

It is important, though, to grasp that what united the rights and the care agendas in Kennedy and Mum Shirl's work was a recognition of and respect for the dignity and worth of First Australians. This comes across most clearly in the anecdote concerning the renowned Mother Theresa (Campion, 2009, pp.104-106).

The latter visited Sydney and contacted Ted Kennedy expressing an interest to see him. He took her on a tour of Redfern where she met the sick and dying. Passing an empty house she suddenly said to Kennedy that she would buy it and open a convent there if Cardinal Freeman would permit it. Kennedy was shocked that she did not factor in seeking permission from the First Australian people before opening a mission among them. Kennedy recommended waiting for an invitation from the people of Redfern and in the meantime learning something about First Australian Culture. Mother Theresa seemed not to understand the point that Kennedy was making. She apparently could not see that the necessity for an invitation before unleashing her charity (Campion, 2009, p.105). Campion (2009) tells us that his experience with Mother Theresa hardened Kennedy in his opposition to 'uninvited do-gooders'. For Kennedy to 'wait for an invitation was to show respect to those you wished to serve' (Campion, 2009, p.106).

The point I wish to make in this case can be most easily grasped if one contrasts Ted Kennedy's attitude with that of the former Minister of Aboriginal Affairs Mal Brough, the initiator of the Federal Intervention into the Northern Territory in 2007. For Sutton (2009) the former minister was 'gutsy' and 'heroic' though he does concede that he could be 'flawed and reckless' (Sutton, 2009 p.9) though it should be noted that Sutton gives no examples of either. He does though retell with approval the story of the confrontation between Brough and the 'gang members of the Evil Warriors'. The latter were going to get into a fight with their enemies and Brough stopped them with the threat of cutting of their welfare payments saying:

If you boys go over the hill tonight to fight those guys, I will cut your money off.
Do you fucking well understand what I'm saying (Brough quoted in Sutton, 2009, p.9)?

Sutton (2009, p.9) describes Brough's actions here and in the Intervention generally as 'shock and awe in their guts, a message that could be heard in their own lingo'. For Sutton the Federal Army which was sent in by the Howard Government 'was the state incarnate, a particularly apt symbolic statement' (Sutton, 2009, pp.9-10). The machismo nature of all this is quite clear and one cannot underestimate its popular appeal in the media. Nonetheless, it must be resisted.

One needs to assert against Sutton and the Murdoch Press and all who think that the solution to the problems of First Australians lies in a good dose of 'shock and awe' that in so doing they have in the words of the Levinasian John Llewelyn (1995), rendered 'the ethical invisible' (Sutton, 2009, p.67). Groups like the 'Evil Warriors' have become the Feared and Despised Other (See below). In Levinasian terms their faces have been effaced (Levinas, 2001).

Of Human Rights and the Concrete Universal

Would a Bill of Rights have helped my family, which was no different to other First Australian families? It is difficult to say. As Hinchman (1984) has pointed out there is great disagreement here and he refers us to Thomas Paine one of the great figures in the struggle for human emancipation. In his *Rights of Man* (1791) Thomas Paine, argued:

It is a perversion of terms to say that a charter gives Rights. It operates by a contrary effect- that of taking Rights away. Rights are inherently in all the inhabitants; but charters, by annulling those Rights, in the majority, leave the right, by exclusion, in the hands of a few... They consequently are instruments of injustice (Paine, 1995).

Paine's views spring from a libertarian distrust of the state. It is instructive here to see this same stance being re-cycled in Elise Parham (2010). The latter, a Policy Analyst with the right-wing think tank- the Centre of Independent Studies, opposes a Bill of Rights for Australia. Her argument is that:

The political risk of introducing a charter of Rights is that it hands too much power to a politically savvy few, who can manipulate it the terms of charters and the way they are interpreted by judges (Parham, 2010, p.1).

Parham's (2010) argument is that the demand for a Human Rights charter is essentially self-interested and adversarial rather than irenic. Yet it remains a key argument of my thesis that a

Rights-based culture, where the citizenry is educated in civics, rights and responsibilities, has a better chance of respecting the inherent dignity of each and every human. For as Michael J. Perry (1997) points out that it is in a notion of the worth of every human being, or as Perry puts it in a belief that every human is sacred and inviolable, that the idea of Human Rights is grounded (Perry, 1997 p.462).

Perry however is sceptical that there is a secular means of grounding a belief in Human Rights (Perry, 1997, p.466). I have no particular axe to grind here. Notions of the sacredness of Human beings do not frighten me. Nor are they foreign to my First Australian sense of spirituality. Here I like to recall Margaret Tucker's story of how she and other children were listening to stories told by her *Nkuppa* (Great Auntie) Taylor. A missionary came and scolded them for not being in church. The children were intimidated but the old woman answered with the pride of my people:

Do you know we had the Good Spirit a long time before you white people came here (quoted in Wilson, 2004, p.91)?

In this context I would point out that in Bhaskar's (1993, pp.113-4; 128-34; 178-9) concept of the Concrete Universal one has a means of grounding Human Rights independently of a notion of the sacred. The Bhaskarian Concrete Universal has four dimensions. At its base is a notion of a **core universal Human nature**. There is only one race and that is the Human race. There are no *Untermenschen* or sub-Humans or pseudo-Humans. We all belong to the one Humanity and despite what has been written and said about us for over 200 years, we First Australians are Human beings. This provides the grounds for basic equity and access to Human Rights.

At a higher level this basic core is acted upon or mediated through a variety of **differentiae** such as gender, sexuality, age, ethnicity etc. The core and the mediations result in a **concretely singularized individual**. The fourth dimension to this concept is processuality or the rhythms of time in action.

The key to understanding the importance of the concept of the Concrete Universal is that it is part of a stratified ontology. As well, the notion of processuality allows one to recognise at differing times in the life of the individual the mediations or the individuality or the core humaneness will be of greater or less salience. The concept of a stratified ontology also enables one to escape entanglement in seemingly intractable dualities such as the individual versus the social. From the Concrete Universal we can see that we are both individual and social.

It is important to grasp that each level of the Concrete Universal is also a multiplicity. I for instance am a human being. That is universal. I am also a woman. That too is universal. I am

an Indigenous person and that, as well, taps into the universal that enables me to sit and talk with the great Maori people, and the Navajo and we understand one another's lived experience in a very deep way. At the level of mediations, I belong to the Smallwood clan. I am also a nurse, an Indigenous researcher, etc.

I am also a unique individual. As I keep saying my thumb print is different from everyone else's. All these levels of course are subject to the process of time. I am not what I was. All things change.

Applied to First Australians the core universal humanity guarantees or should guarantee, as I have said, our access to Human Rights. The mediations of course include clan, language group, place, totem etc. They are also important and it is here that the notion of stratification can be used as a justification for rejecting the 'blind to colour' argument frequently posed as the liberal ideal and as a justification for rejecting affirmative action policies (Carr, 1997).

It is interesting to note in this context Berry's (1996, p.137) spirited rejection of the favourite tactic of the 'enemies of the African-American search for remedies to discrimination'.

This tactic is to quote from Martin Luther King's famous 1963 speech where he talked of his dream that one day his children would be judged not by the colour of their skin but by their character.

It is even more interesting to see the same tactic surface in the Australian context. Thus Ron Brunton in his polemic against the Stolen Generations Report (Human Rights and Equal Opportunities Commission, 1997) argued of those who supported the report:

They need to remember that Martin Luther King's stirring wish that his children would see a time when people 'will not be judged by the colour of their skin but by the content of their character' is a classic expression of the liberal ideal (Brunton, 1998, p.20).

In terms of the Concrete Universal what Brunton and the 'enemies' that Berry talks of are doing is to privilege the layer of the core universal Humanity. They are denying the reality of the mediations such as racism and structural violence and the concretely singularised identity of those who suffer discrimination. They offer in effect an abstract universalism that does nothing to redress the lived experience of those who suffer from racially based prejudice. While Human Rights may spring from a universal base they must address the level of mediations and the level of the concretely singular individual, if they are to become anything other than efforts in abstract moralising.

Explanatory Critique and Human Rights

Bhaskar's concept of an explanatory critique was introduced to counter the philosophical tradition most prominently represented by the philosopher David Hume. In his *A Treatise of Human Nature*, Hume (1739) denied that one can deduce an 'ought' from an 'is', that is an empirical reason could not constitute a basis for morality. The passage where Hume outlines what was to become known as 'Hume's law' is as follows:

In every system of morality, which I have hitherto met with, I have always remarked, that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs; when of a sudden I am surprised to find, that instead of the usual copulations of propositions, is, and is not, I meet with no proposition that is not connected with an ought, or an ought not. This change is imperceptible; but is, however, of the last consequence. For as this ought, or ought not, expresses some new relation or affirmation, it is necessary that it should be observed and explained; and at the same time that a reason should be given, for what seems altogether inconceivable, how this new relation can be a deduction from others, which are entirely different from it (Hume, 1739).

This passage has been much debated. Jessica Spector argues that it is not totally representative of Hume's thought and that in his account of the passions he does indicate a way in which empirical description can be value laden (Spector, 2003, p.146). Somewhat similarly Lawrence Moonan while defending the notion that one cannot derive an 'ought' from an 'is' as 'unexceptionable' and rejecting all attempts to do so (Moonan, 1975, pp.97-8) argues that we ought not to use the expression 'Hume's law', but rather should attribute the doctrine to Kant. Here he quotes the latter as saying:

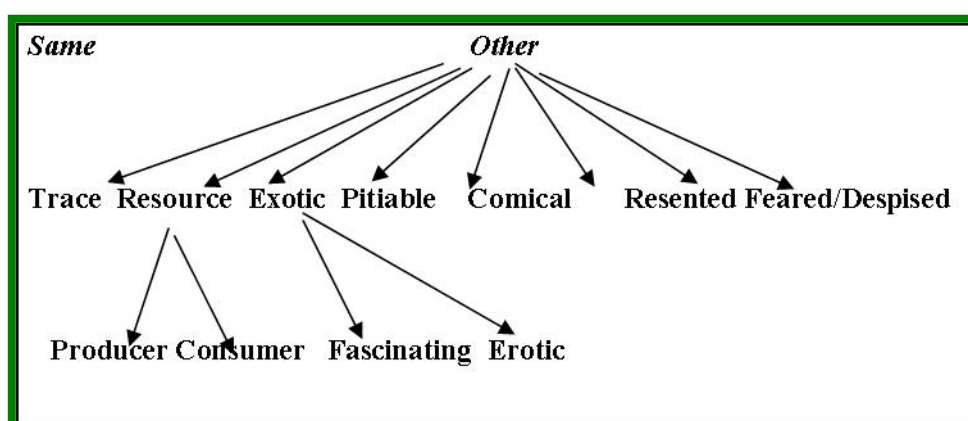
Nothing is more reprehensible than to derive the laws prescribing what ought to be done from what is done, or to impose upon them the limits by which the latter is circumscribed (Kant, quoted in Moonan, 1975, p.98).

Whether one attributes the refusal to derive an 'ought' from an 'is' to Kant or to Hume is immaterial for the purposes of this thesis. What is important for my purposes is that the condition of First Australians, which I have revealed in my introduction, is such that it demands that one ought to do something about it. It is also part of my argument that what ought to be done includes protecting the Human Rights of First Australians and of Torres Strait Islander peoples. It is here that Roy Bhaskar's (2009) refutation of the Humean / Kantian tradition and his insistence on the possibility of deriving an 'ought' from an 'is' is particularly necessary and

useful for my purposes. Intrinsic to this process is the rejection of the ‘flat and uniform ontology’ of empiricism (Bhaskar, 2009, p.105). If we replace this with a depth ontology consisting of a hierarchy of partially interconnected levels, where an element is subject to determination from other levels, both higher and lower and from outside factors and also those factors which determine which level it occupies and which separate it from other elements on the same level (Bhaskar, 2009, p.106). Within this depth ontology any particular social phenomenon must be regarded as the product of a multiplicity of causes. For example I would argue that a death in custody such as that of Lygi Vaggs (Paul, 2010; See Chapter Nine or Mr Ward, who died in a police wagon (Ackland, 2010) has to be understood not only as a product of racism but also as a result of the historical necessity for the structures of colonialism to regard the First Australians and the Torres Strait Islander peoples as the Feared / Despised Other. I have just made a truth claim about a particular social object – death in custody. In other words I have attempted to say what is done. I would now maintain following Bhaskar, that if I can show that a set of beliefs about First Australians, i.e. That they are the Feared / Despised Other is false and that is a factor in the death in custody of First Australians, then it follows that I should proceed to a negative evaluation of this same set of beliefs. I ought also, *ceteris paribus*, to take actions designed to counter, refute or dissolve that set of beliefs. The *ceteris paribus* clause here is needed because circumstances might be such that I cannot undertake these actions (Bhaskar, 2010, pp.183-4). I will return to a fuller discussion of the relevance of Human Rights to First Australians in Chapter Seven, but for the moment we turn to a discussion of the concept of ‘the Other’ and the role it plays in the dynamics of recognition.

The Differentiated Other and the Dynamics of Recognition

Figure 2.1: Differentiating the Other



What MacLennan and Mitropoulos (2007), Sarra (2005) and MacLennan (2010) in differentiating the Other attempted to turn the familiar duality of Same-Other into a useful tool for analysing a range of behaviours and also into a means of guidance for ethical behaviour in the context of

interethnic relations. Fig 2.1 is to be read from right to left. The category of the Feared / Despised Other is the category of racist behaviour. MacLennan (2010) says that he kept the word Feared in because he believes that Fear underpins a lot of negative behaviour. This is a very dangerous category to belong to. The Feared Despised Other has no rights. They are lynched or murdered or set on fire or bullied relentlessly.

A very clear expression of my people as the Feared/Despised Other is contained in the following statement by a Queensland clergyman in the 1870s. He wrote:

If our instincts are true we must loathe the Aborigines as they are now, less estimable than mongrels that prowl like them in the offal of a station. By the ashes of their fire...they are crouched with their knees up to their chin and with a half idiotic and wholly cunning leer on their faces, their hair matted with filth...(quoted in Tatz, 1999, p.18).

Inhabitants of this slot generally try to escape into the other categories. Before discussing that I would raise the possibility that First Australian youth who are recognised as **Feared / Despised Other** may embrace that identity and give it back to their oppressors in the form of criminal behaviour. Going to prison then can become a rite of passage and attempts to discipline and punish can become counterproductive. Much of the behaviour of First Australian youth and especially the 'generation gap' behaviour that Coombs and Stanner (1974, p.14) commented on could be interpreted as a response to be treated as the Feared / Despised Other. The image below helps to situate the Despised Other and Feared Other within the mainstream media and attitudes.

Picture 2.5: The Feared and Despised Other



Source: *The Australian*: retrieved from: <http://www.sauerthompson.com/junkforcode/archives/2006/05>

The **Comical Other** is the Other we laugh at. One thinks here of the famous Gay British comedians of the 60s and 70s. They occupied the spot of the Comical Other and made some of them, a good living out of it. Another classic Comical Other is the Paddy Irishman played out for years and very successfully in the context of British colonialism. First Australians too have and continue to seek refuge in this category. Though of course there is a price to be paid. One is not free from stigma but one is safer.


Recently MacLennan (2010) has expanded the model to include here another Category – the **Resented Other**. Reading through the Brennan Report on Human Rights and the contribution to the website (see Chapter Seven), I was struck by their emphasis on their finding that many Australians resented the privileges that they perceived the First Australians were getting. It is beyond my understanding, given the data that I have covered in Chapter One, how one can view First Australians as privileged, but the perception is real if untrue. Nevertheless the category of the resented Other has a long pedigree. If one examines the Canadian situation one finds that in 1898, the Department of Indian Affairs complained that the Indigenous people of Canada were too big a burden because of the ‘superior advantages’ given them by the government (Buti, 1999, p.30).

MacLennan (2010) arrives at this category by tweaking the category of the Same. If one moves away from an abstract understanding of the Same and makes the Same an angry fish and chip owner from Ipswich then one can get the following:

Picture 2.6: Pauline Hanson and quotes from her maiden speech

The Resented Other

Present governments are encouraging separatism in Australia by providing opportunities, land, moneys and facilities available only to Aborigines. Along with millions of Australians, I am fed up to the back teeth with the inequalities that are being promoted by the government and paid for by the taxpayer under the assumption that Aborigines are the most disadvantaged people in Australia. ...I have done research on benefits available only to Aborigines and challenge anyone to tell me how Aborigines are disadvantaged when they can obtain 3 and 5 % housing loans denied to non-Aborigines.



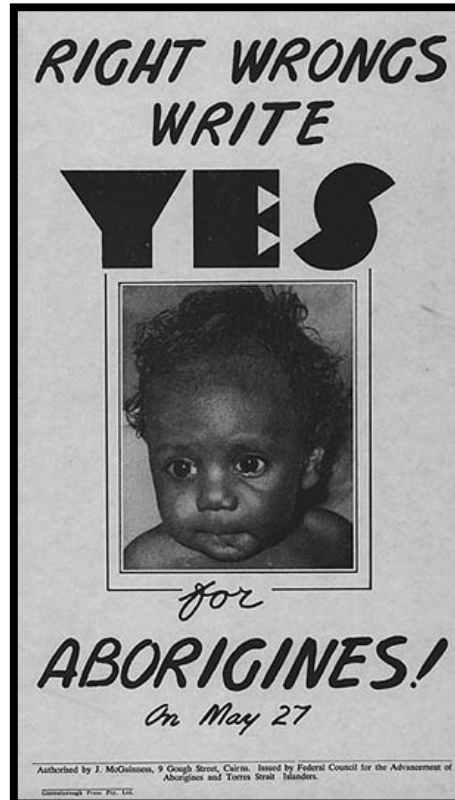
Source: National Indigenous Times (NIT) Published on April 7th, 2009

The next slot that of the **Pitiable Other** is the 'poor fella me' slot, the slot of the Oxfam ad. The aim is to provoke pity and charity. This is the Other that motivated JD Woods in 1879 to write about First Australians:

Without a history, they have no past; without a religion they have no hope; without the habits of forethought and providence, they can have no future. Their doom is sealed, and all that the civilised man can do ... is to take care that the closing hour shall not be hurried on by want, caused by culpable neglect on his part (quoted in Maynard, 2007, p.9).

Again being the Pitiable Other is much safer than to be feared and despised. It is a traditional strategy for minorities such as First Australians, but it does tend to limit agency. One, however, is not emancipated. Rather one is in a relationship of co-dependency with the powerful. Possibly here there is an element of the embracing of victimhood. It is instructive though to reflect on the mobilisation of the Pitiable Other for the cause of Indigenous Citizenship (See poster below). The focus on a little child was presumably designed both to arouse pity and to allay fear.

Picture 2.7: A 1967 referendum poster urging vote to recognize the First People of this land as Australians.



Source: <http://www.google.com.au/imgres?imgurl=http://www.convictcreations.com/history/images/aboriginalvote>.

The next category is that of the 'Exotic Other'. MacLennan and Mitropoulos (2000) subdivided it into Erotic and Fascinating because they wanted to distinguish between the sexualisation that is sometimes involved and the straightforward deployment of spectacle. This can be thought of in its more benign manifestations as the Other of the tourism and entertainment industries and girlie calendars.

Here the annual Aboriginal Women's Calendar is a classic instance. The advertisement for the latest calendar contains the following:

Please consider a few things; *don't expect to make a great deal of money*, the calendar will be released in a limited edition series to test the market, if successful a larger print run will follow. This means *the calendar is being created to publicise and promote the beauty of Australian Indigenous women, the calendar will be sexy but not disrespectful*. At least 30 girls will be photographed for the calendar and a judging panel will select the final images...Women of all shapes and sizes are encouraged to participate, remember this is a swimwear calendar so you must be at least size 8 to 10, at least 18 years old and be prepared to promote the calendar...you will need to arrive on time for hair and makeup, there is no 'Koori Time' or 'Shame' when working on a professional shoot. Participants can bring a friend or relative but they must not interfere in any way shape or form (Quilliam, 2010; emphasis added).

What we have here is yet another example of tacky exploitation presenting itself as liberating and sexy fun. If one asks '*cui bono*?' the answer can hardly be the models with whom it is apparent will be paid very little. What they get instead is the hope of Warhol's promise of fifteen minutes of fame.

Of course there are even less benign manifestations of the Exotic Other, most obviously as in the sex industry. These have led to a great deal of exploitation, harassment, maltreatment and suffering. Similar instances of constructing First Australians as the Exotic-Erotic Other can be detected in accounts such as that of Vernon Yanner's militant and feisty nature of Doomadgee people. The cause of the feistiness is given as the tendency of the missionaries to get 'the girls to lift their dresses over their heads... [to] see if they had pants on' (Yanner, quoted in Hooper, 2008, p.136). Hooper adds here that she had heard of similar practices on Palm Island. There:

young women in the dormitory had to line up and lift their dresses over their heads to prove they were wearing clean underpants (Hooper, 2008, p.136).

When we come to the **Other as Resource** we have come to the Other who is, as Noel Pearson and other right wing commentators would say, are part of the 'real economy'. For some this is the purpose of education. One can subdivide this category into the Customer or Producer. There is an inherent contradiction within these sub-roles. Employers seem to dream of employees who work for very little but somehow have the money to be customers as well. I suppose that is where the credit card comes in! Education traditionally strove to turn out discriminating consumers and skilled producers.

It is the unfortunate mark of many Indigenous communities that they have very little money to be customers and do not produce what has been valued by the white community, though of course it is quite inaccurate to think of Indigenous communities in that way. If we look at the sporting and the artistic domains for instance then First Australia is punching way above its weight.

The final category is the **Other as Trace**. MacLennan and Mitropoulos (2010) developed this category to try and work with some of the ideas of the philosopher Emmanuel Levinas. He thought of the Other in religious terms as the trace of the ultimate Other that some call God. For Levinas there was a primordial ethical imperative for all of us to do all we can for the Other.

It is unfashionable in these days of vulgar secularism to think in religious or spiritual terms. Still we can understand the **Other as Trace** in terms of the Christian tradition which held that we are all made in the image of God. Buddhists also stress that we all have Buddhahood within us.

My own preference for an understanding of the **Other as Trace** is that it means that we are all are human beings and to be human is to have worth rather than simply the market value of the **Other as Resource**. Moreover it should be the aim of education to foster the realisation in all students that they do have worth rather than simply market value. Sarra (2005) does not shy away from a spiritual interpretation of the Other as Trace, but he does tend to think of this Other as the Strong and Smart Other. That might also be a way to enable us to think of the Other as Trace in secular and democratic terms.

What then of the relation of 'the Same' to 'the Other'? It is tempting for those who are oppressed to attempt to join the category of 'the Same'. Indeed one can be promised that the category of 'the Same' is open to everyone. Thus when Keith Windschuttle says: 'Aboriginal children are Australian citizens. They deserve nothing less than the same opportunities provided for all other children in this country' (quoted in Ashenden, 2010), he appears to be holding out the opportunity for true equality. Instead, what is on offer is an abstract universalism, empty of any knowledge of the actuality of First Australian lives. As such it cannot constitute a way forward.

The true way forward for those who have been inserted into negative 'Other' slots, is to refuse them and to embrace instead their Otherness as Trace. In Chris Sarra's (2005) words, they must become proud to be 'black and deadly'.

Levinas also stressed that we should not try to assimilate 'the Other'. Our aim is not to produce people who are like us. Rather it is the difference or the Otherness of 'the Other' that constitutes their worth. So there is no problem with being 'Other'. The whole question is which 'Other'?

MacLennan (2010) argues that our aim then should be to make educators and students aware of the dynamics of Othering. It is, he claims vital that educators understand how children can self-other and what 'Other' is being produced in that process. I would add here that we also involve rugby league personalities such as Andrew Johns in this process. Perhaps then he could come to realise how hurtful his description of First Australian star Glen Innes as a 'black cunt' and 'coon, Abbo, nigger and monkey' is very harmful and hurting for my people (Heming, 2010). Even so it is also important to grasp the concept of 'the Other' in a positive sense and to realise that above all we should endeavour to let go of our fears and to welcome 'the Otherness' of 'the Other'. I can think of no better way to do that than by listening with respect to people telling their own stories. It is in that spirit I offer mine.

Concluding Comments...

This chapter has laid the methodological basis for the thesis. It has drawn upon a range of Critical Realist and other concepts to ground the narratives and also to motivate my engagement with other writers. The next chapter advances a personal narrative which positions the lived experience of my family and me, within the context of First Australians wellbeing in the 21st century.

Chapter 3. Narrative and Testimony

I can hear my grandma Mable's gentle voice and laughter as we talked
in the evening with only a kerosene lamp and radio being our
guests,
I can hear the fine-grained sand growing in intensity during the
evening as it hits the outside of our doors and windows,
I can hear the water starting to boil on our wood stove for my
nightly bath,
I can hear my grandma singing Christian songs softly in Diné
language as she spun her wool,
I can hear our roosters expressing themselves freely every morning
and evening.
These are things I can hear when I close my eyes
I can see the sun rising slowly above Huerfano Mountain with the
rooster greeting the new day,
I can see the billy goats and baby sheep running up and me smiling
instantly because this is such a special feeling,
I can see my grandma pulling up in her white Ford-100 pickup as she
picked me up from Bible school,
I can see the many dirt roads that never seem to end,
I can see the old green outhouse that always seemed to get farther
and farther out of reach when you needed it most.
These are things I can see when I close my eyes
I can smell mutton stew cooking as I wake up out of bed,
I can smell the wet dirt after a monsoon rain,
I can smell a strong musky odor coming from the sheep as they came
up to feed,
I can smell the dust from the tile floors as I sleep and dream,
I can smell the toasting sage in the middle of the hot afternoon.
These are things I can smell when I close my eyes
I can feel my grandmas soft satin long sleeve shirt and matching
dress as she holds me in her lap telling me a story of the old ways,
I can feel my grandma's warm blankets wrapping me every night as
I go to sleep,
I can feel the warmth of the sun and the dry hitting me as I wake up
every morning,
I can feel the warm sand as I walk barefoot to play outside.
These are things I can feel when I close my eyes,
I can taste the small sand grains between my teeth as a windstorm
starts to come,
I can taste the kneel-down-bread with steamed corn and green
chilli stew,
I can taste the fresh Diné tea, brewed by my grandma every morning,
I can taste the sweet corn pollen being placed in my mouth every
morning as my grandma did her morning prayers.
These are things I can taste when I close my eyes.

(Temashio Anderson: a member of the Diné/Scott's Valley Band of Pomo Indians, 2005).

My aim in this chapter is to situate myself and my family within the totality of a people who have struggled for over 200 years for justice, Human Rights and dignity. I am aware however, that in turning this narrative to myself and my own family that I risk alienating the non-Aboriginal reader. Who am I to write about myself? Why is my story important? Is it not the same story as that of countless other First Australians? Could it not be just another ego trip?

My answer is firstly to quote Elizabeth Cook-Lynn who has argued that ‘the right to speak for oneself and one’s people... is as fundamental as food and decent housing (quoted in Totten, 2005, pp.85-6). Equally important for me is the fact that my story is indeed no different from that of thousands of my people, but I would argue that it is the very typicality of my life story that gives it its importance. ‘*Ex uno disce omnes*’ is my response to those who would cavil at a personal narrative. In any case my life as an Aboriginal woman and a nurse has long cured me of the illusion that great men make history and because of that we are all supposed to be interested in their stories. I have always been attracted to the idea of writing history from below. As one of my favourite poets put it:

Who built Thebes of the seven gates?

*In the books you will find the name of kings.
Did the kings haul up the lumps of rock?
And Babylon, many times demolished.
Who raised it up so many times? In what houses
Of gold-glittering Lima did the builders live?
Where, the evening that the Wall of China was finished
Did the masons go? Great Rome
Is full of triumphal arches. Who erected them? Over whom
Did the Caesars triumph? Had Byzantium, much praised in song,
Only palaces for its inhabitants? Even in fabled Atlantis
The night the ocean engulfed it
The drowning still bawled for their slaves*

(Brecht, 1935).

My mother and father were both activists. I say that with a hard earned consciousness, that to be an ‘activist’ is to invite suspicion and hostility from much of White Australia. But I repeat that my father and mother were both activists and that has always been a source of great pride to me.

Before speaking of my family, it is important for you to have a brief introduction to Palm Island and some of its history.

Palm Island is off the coast opposite to Townsville where I live. I have been to the island many times and love the place and the people. As my father and grandfather were sent to this island, I strongly identify with this community. Designed as a penal colony it has been a struggle for the

people to make it a decent place to live. All Australians are fortunate that historian, Joanne Watson (2010), has given a detailed history of that struggle in her book *Palm Island: through a long lens*. Watson's account of the Island, from a non-Indigenous perspective, reinforces the sad stories of many of the Bwgcolman people.

I learned from my parents and Elders, many stories about life on the island however, two stories in particular stand out.

The 1930 Rampage

Elder Peter Prior, another Birrigubba man, was ordered to shoot to kill Superintendent Curry on Palm Island, when Curry was on a murderous rampage in 1930 killing his own children, wounding the medical staff, blowing up buildings and terrorising the entire community (Watson, 2010, pp.55-75). The man, who ordered the shooting, Assistant Superintendent Thomas Hoffman, later denied giving the order. Both Hoffman and Pop Peter were put on trial though the charge was thrown out. Watson tells us in her account of the incident that the Judge in the case explicitly acknowledged that Pop Peter was charged simply because he was a First Australian man who had shot a white man and that if Pop Peter had been white then no charges would have been laid (Watson, 2010, p.71).

Watson (2010) argues that the Curry incident tells us a lot about the reserve system and the quality and kind of men who were put in charge of the lives of thousands of Aboriginal people. She points out as well that:

Curry had experienced a twelve year reign as 'supreme commander' of an isolated island settlement upon which he had almost complete control over the daily lives of more than an thousand Aboriginal residents. Here was a man used to making executive decisions concerning where people lived, where and how they worked, whom they married, even what they ate and challenges to his rule could be easily over-ridden through sleight of hand, which included the power to imprison, humiliate, starve and exile (Watson, 2010, p.74).

The Strike

I am proud to say that My Grandfather was one of the seven men who went on a hunger strike on Palm Island in 1957 for better conditions. Watson (2010, pp.110-118) in a splendid retelling of the events during and after the strike has recorded that the entire community was behind the strikers in a very disciplined and organised way. They were reacting partly to the draconian rule of the Superintendent and ex-policeman Roy Bartlam who was put in charge of the island in 1953. The strike was broken not by a loss of militant feeling or support. It took a dawn raid by

the police on the 13 June 1957. They smashed their way into the strike leaders' homes. The leaders were Sonny Sibley, George Watson, Willie Thaiday, Bill Congoo, Gordon Tapau, Albert Geia, and my grandfather Eric Lymburner.

They were all handcuffed, chained and separated again from their families and taken off the island at the point of a machine gun (Watson, 2010, p.113). Willie Thaiday has described what happened:

Early in the morning, about four o'clock they strike my place. Detective Sergeant Cronin, Inspector Cooke and Greg Barry [sic], Senior Sergeant of Police. Mr Cronin says:

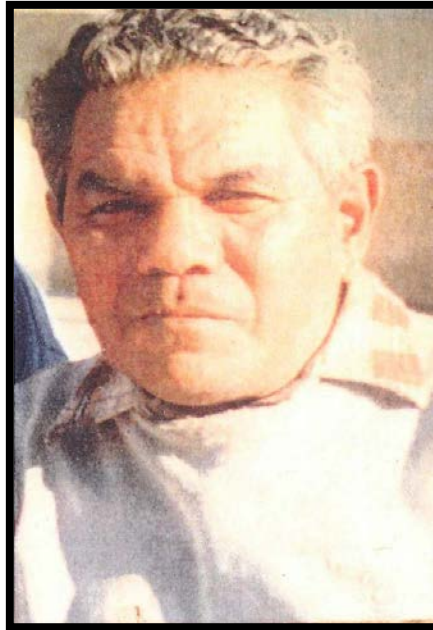
'Don't move Willie or you gonna get hurt...' They shove me, make me go forward. Detective Cronin says: 'Don't try any dirty tricks or else you get hurt'. They slam handcuffs on my hands and we come down to the beach. There is another five coming too and we all seem to reach that boat together (quoted in Watson, 2010, p.113).

They were held in Townsville without being charged or given access to legal aid. They were subsequently scattered to Woorabinda, Cherbourg and Bamaga - other reserves in Queensland (Watson, 2010, p.115).

Many people kept the memories of the strike and what life was like under the rule of Bartlam alive, for all the families.

My Dad - Archibald Smallwood

Picture 3.1: Dad - 1975



Source: Personal Collection

It is impossible for me now to re-capture the essence of my father. The facts such as that he was a Birrigubba man, born at Plantation Park in the Burdekin region, seem so barren of emotion. I wish I had the skill and the words to convey how remarkable a human being he was and how much I loved him.

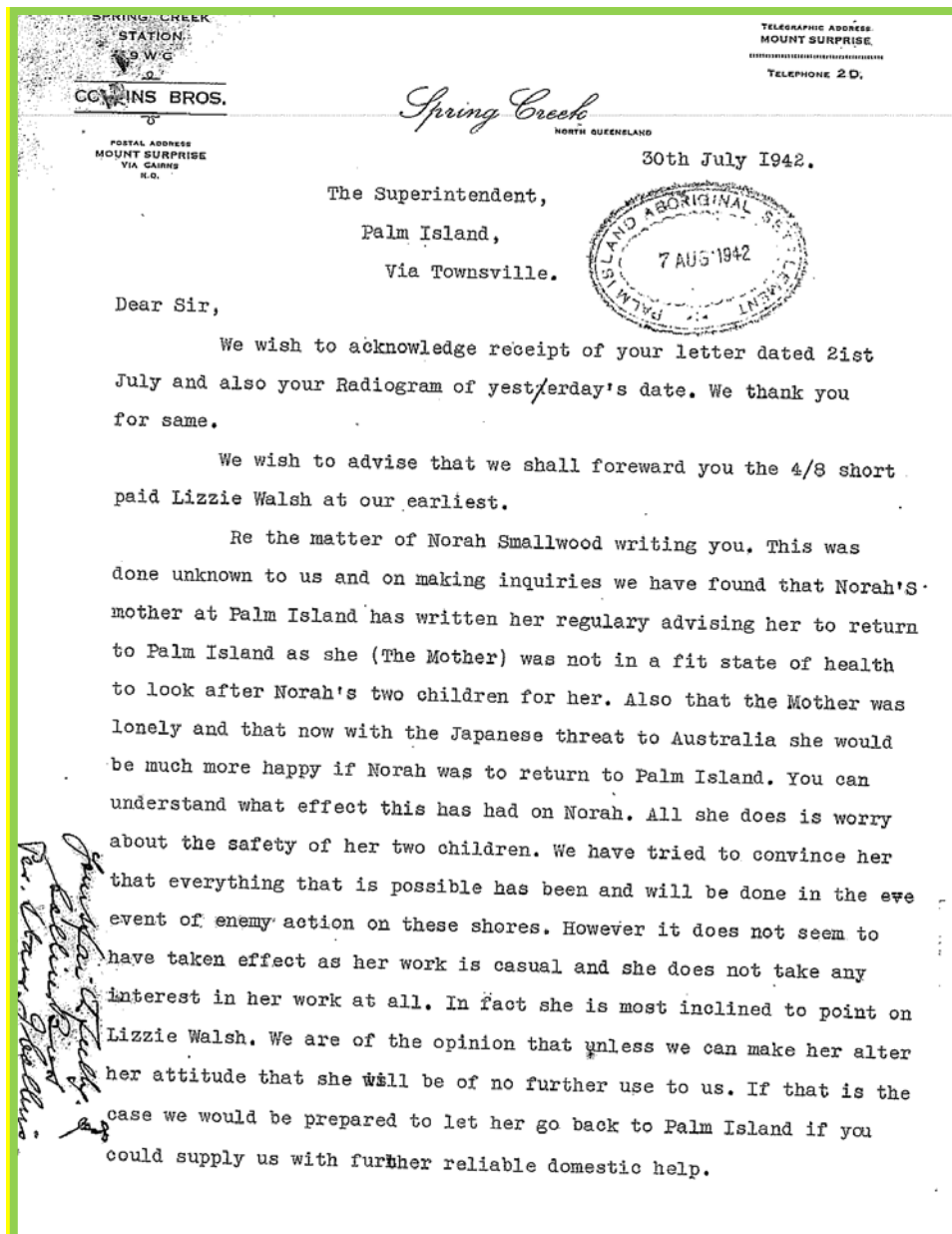
Yet I can retell some moments of importance in his life. Perhaps most of all the occasion when as a five-year-old child, my father was playing with a group of children in Ayr, North Queensland, when he was taken by the authorities and sent to Palm Island under the Protection Act (1869). The reason for this kidnapping was that he was a young fair-skinned child, and so had to be protected from contamination through contact with the dark skinned. I wish I could convey to my White readers what these bare facts mean to the First Australians. If only I could get across the pain and suffering. If only I could tell them of the parents who rubbed dirt on their children's faces to make them look dark skinned when word went out, the White man was near. Something of the agony of our people is captured in the *Bringing Them Home Report* (1997). All Australians should read that report and meditate on the suffering.

All First Australians lived at risk of the *Aboriginal Protection Act*, 1869. That was the existential reality that governed every aspect of our lives. The children could be 'removed' at any time and there was nothing the parents could do about it.

At Palm Island, my dad and his brother Graham were raised by a number of family members who had also been removed to Palm. These were great granddad Con Lymburner, granddad Percy Smallwood, and grandparents Eric and Bessie Lymburner (oral history from Smallwood A and Lymburner E). The impulse to activism that my father, mother and myself, have was also shared by my grandparents.

My dad's parents were Percy and Nora Smallwood, both Birrigubba. They had passed on before I was able to meet them. I have inserted a document that speaks directly of my Grandma Nora when she was younger (Fig 3.1). This letter demonstrates the direct control that Police had over the lives of Aboriginal people in the 1940's.

Figure 3.1: Letter to Superintendent Palm Island about my Grandmother Norah Smallwood, 30 July 1942



Nora Smallwood (nee Lymburner) was the sister of Pop Eric Lymburner. My grandparent's parents on my mum's side were Alfred and May Stanley, who were also involved in nurturing and rearing me and other siblings in the early years of my life in Townsville.

I had the privilege of spending some years of knowing the Lymburner Grandparents, and my Dad always spoke highly of Grandma Nora and Pop Percy Smallwood. He regarded all six as his parents. Whilst my dad constantly reminded his siblings and the community in general, of the constant struggle for justice, he regularly spoke of the racist laws that kept us in a state of oppression. He was very optimistic that through continual activism, justice would prevail. That faith in the efficacy of activism is something that I received from him and which I will take to my grave.

Dad was a very gentle, wise, political and cultural man, and he fought for the rights of lower class people. He was an active unionist and was regularly in the media denouncing human rights violations against all peoples. Dad was something of a 'bush lawyer' and if he had been allowed to proceed beyond year four, I have little doubt that he could have successfully studied to become a lawyer.

He was also active in the Australian Labor Party and endeavoured to encourage many Aboriginal and Islander people to join as well. His words of wisdom to his family were 'you must receive a strong western education, and combine it with your Aboriginal one. He advocated for us not to become the oppressor and most importantly, never lose sight of where you come from'.

He regularly spoke to us about the oppression of all his people who had suffered, when they were removed from their families and sent to the infamous Palm Island, many of these people never saw their families again.

Dad also advocated to the young to remember the many elders who fought and died in this country, to make life a better place for them. He told us stories of the Freedom Rides of the 1960s, headed by Charles Perkins, a well known Aboriginal academic, activist and sportsman born in 1936 and passed on in 2000. Most importantly, he shared the stories of the seven magnificent men who went on a hunger strike in 1957 for better conditions for the Bwgcolman people. 'Bwgcolman' is the name given to the descendents of the 40 different clans banished to Palm Island.

My Dad was a very hard worker, taking on labourers' jobs, then progressing to working for Queensland Rail (QR) for 30 years. He began as a porter riding his bicycle all around Townsville delivering mail to the railway employees and then moved up to become the first

Aboriginal Platform foreman to work for QR, as well as a trades and labour delegate for the union. He travelled all over Queensland in that capacity. Below is a copy of a Townsville paper 'Truth' on 6th March, 1960 which demonstrates some of the difficulties that my dad and Aboriginal people in general, suffered as a result of 'racist attitudes and rules (Fig 3.2).

He also did boxing with the Jimmy Sharman troupe, keeping himself holistically fit. These boxing activities took place at show time. He fought along with the late greats such as Jack Hasson, George Brackenridge and many others. When he had finished with his boxing, he took up football and was a part of the building of confidence and pride in our people. This was due to the success of the teams he played for.

After his divorce with my mum, Dad had two more relationships which produced more siblings. This now took the number of my siblings including myself to 19. He also raised other children as his own. We have all benefited greatly from this amazing non-violent, culturally appropriate, spiritual leader.

He dealt with alcoholics in the parks. He also had dealings with lawyers, doctors, politicians and church leaders promoting reconciliation, truth and justice. His funeral was a testimony to the great respect he had in the community, with hundreds of Indigenous and non-Indigenous people in attendance. The funeral was so large that the police were called out to control the traffic; the late Mickey Thaiday gave testament to dad's character by singing the song '*A legend in my time*'.

Of all the children playing in the park, my father as I have pointed out was taken from his family for the 'crime' of having brown skin. His black skinned friends were spared. As in the 1850s when white American slave-owners deported proof of their 'immorality' and 'miscegenation' with black women to the newly formed free state of Liberia, conveniently located 7000 km away (Greene, 1936). Many white families in North Queensland wished not to be confronted by the shame of their male-folk evidenced by brown-skinned children living in the same town. To get an idea of the racist nature of the thinking behind this policy one has only to recall the words of Chief Protector Bleakley:

It is only by complete separation of the two races that we can save him ('the Aborigine') from hopeless contamination and eventual extinction, as well as safeguard the purity of your own blood (quoted in www.HumanRights.gov.au, 2007).

Not only was my father deprived of his parents; like others he was traumatised by the harsh treatments meted out in the Palm Island dormitories. Those on the island also had to work very

hard, long hours without pay. Watson (2010) gives us two anecdotes that show the kind of life our people had to endure in the dormitories. The first is by Marnie Kennedy. She wrote:

The matron was a white woman. She knew how to dish out punishment for the least little thing. I was thrown in jail for singing a song called 'Who said I was a bum?' ...All she said was 'come with me' and she shoved me in jail for the night. I was given a bag of beans but they were hard and dry. I was very frightened and hungry and cried myself to sleep (Kennedy, quoted in Watson, 2010, p.44).

We kids once asked dad why he never spoke his language and why he never taught us so we could carry on our culture. It smote me to the heart to see his sad eyes and how with a heavy heart he told us that the reason he never passed on too many stories, songs and language was because it brought back the painful memories of the beatings. Uncle Graham, my father's brother who is still alive at the age of 80, often said he did not want to go back to Palm Island as it held too many bad memories.

My father and many like him, experienced nothing less than the deliberate destruction of culture – of stories and songs and oral histories, the deliberate dismantling of families and the rape or abuse of women to 'water-down blackness'. As we will see in Chapter Seven these are now recognised as crimes against Humanity, as genocide.

A recent quote from Elder Alison Nickie who said: "In the early days your dad always found time for the black community in those days we had no lawyers and he would show up to court to assist us from going to gaol for petty offenses. He saved many of us from going to gaol, and today there is very little recognition for him." (A community meeting, in Townsville, 14th September 2011)

Figure 3.2: Newspaper article 1960

TRUTH 4/3/60

NOW, RAILWAYS DRAW LINE COLORED, SO HE'S BANNED

The Railways Department has imposed a color ban in the refreshment room bar at Townsville station.

This claim was made to "Truth" yesterday by quarter-caste aboriginal railway porter Archie Smallwood, 32. He said the ban had been in force for four months. "I have seen two colored Australian soldiers get off the Sunlander in Townsville to be refused a glass of beer in the refreshment room," he stated.

8P/103

"I have worked for the Railway Department as a porter for seven years. Before last November, I was always allowed to have a beer in the refreshment room after finishing duty, but since then I have been refused."

"I have tried and tried again to get a drink since the ban was put on, but they will not serve me. Attendants in the refreshment room bar told me they had been instructed not to serve colored people."

"White railway employees are still allowed to drink there," Smallwood, clean and smartly dressed, showed "Truth" his certificate that he does not come under the Protection Act.

But he can . . .

- He says, as a free citizen, he:
- Has been registered on the electoral roll since he was 21 years old.
- Passed an educational examination to get his job with the railways.
- Pays income tax like any other worker.

But he is still refused a drink in the station refreshment room bar and in several Townsville hotels.

"I don't drink very much, but I am fighting for a principle," he said.

"There are about 60 colored men working for the railways in Townsville and none of them can get a drink in the refreshment room."

Archie Smallwood



Source: Archives Truth paper, Townsville 1960

Mother – Grace Smallwood (nee Stanley)

Picture 3.2: Grace Smallwood -2000



Source: Personal Collection

My mother was born in Ingham and is one of ten children and was the third eldest. Her mother, May Baggo, was born in Mackay and was a South Sea Islander woman. Like all the elderly South Sea Islanders, mum's grandparents had been 'blackbirded'. That means that Slave-traders, known as 'blackbirders', kidnapped mum's people to work in the North Queensland sugar plantations. My grandmother was therefore a South Sea Islander or as the racist terminology is called a 'Kanaka'.

I am aware here that some historians, Mercer and Moore (1978), and some polemicists such as Windschuttle (2004) have denied that the 'Kanakas' were kidnapped. However Bird has provided conclusive evidence that, *contra* Windschuttle, blackbirding is not a myth (Hawkins, 1995). However, even Windschuttle (2004) admits that:

...the Commonwealth's decision to deport the majority of Pacific Islanders between 1904 and 1908 was a genuine injustice to a largely assimilated population (Windschuttle, 2004).

Nevertheless Windschuttle remains anxious to deny that 'Australian nationalism...was...based on race' (Windschuttle, 2004). However, he neglects to mention such details as the Commonwealth of Australia's Sugar Bill of 1903 which provided bounties for sugar that had been grown only by whites (Mercer and Moore, 1978, p.92).

It was said the average working life of a 'Kanakan' in the cane fields was six months. By this you have to understand the term 'working life' and 'life expectancy' was one and the same. As black people, the South Sea Islanders had no Rights (Flanagan et al, n.d.).

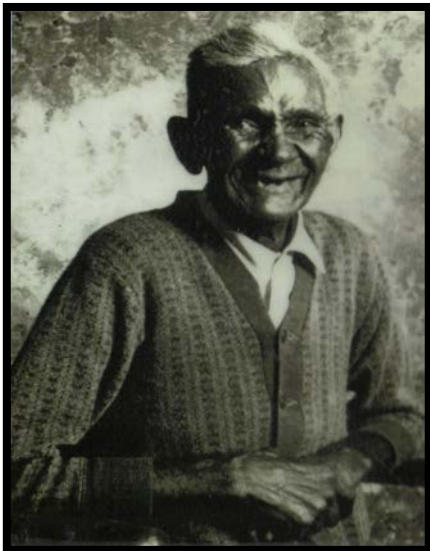
Though Windschuttle (2004) has denied that the South Pacific Islanders were slaves, Faith Bandler said this of the treatment of her people in an interview with Paul Kelly:

I maintain that it was a form of slavery. It is true that some people in the later years signed a contract to work for three years. But my father didn't, neither did his brother and neither did their sister. They were paid nothing whatsoever (quoted in Flanagan et al, n.d.).

Townsville, my home city, is named after blackbirdier Robert Towns, a crafty opportunist who employed others to kidnap slaves for his cane fields (ABC Stateline, 2005). When surviving slaves were deported after the incorporation of the White Australia policy into the *Immigration Restriction Act 1901*, hundreds of 'nearly white' poor Italian villagers were recruited to carry on business for very low pay (Queensland Sugar, n.d.).

Mum's Dad, Alfred Stanley, was born at Coolullah Station, behind a tree stump near Cloncurry on the 14th August, 1907. Kitty, his mother had been taken from the gulf area by a white man called Riley under the Protection Act. Granddad identified with the Kalkadoon nation for many years. Granddad had two other siblings.

Picture 3.3: My Grandad Alfred Stanley



Picture 3.4: My Grandma May Stanley



Source: Personal Collection

My grandfather left his mum in 1926 went to work on a cattle station near Mackay where he met my grandmother, May Baggo. They moved to Ingham where Mum was born and then went to Townsville where they lived in a tent in Rowes Bay. This was the fringe dwelling camp used by Aboriginal people at that time. They then moved to Belgian Gardens before moving to Garbutt. By this time Garbutt had become the black community. Lower socio-economic white families also lived there. In a way that was so typical of the experience of the Aboriginal and Torres Strait Islander people, Grandma found domestic work while Grandpa worked on cattle properties and then as a public works labourer. He assisted in building the old Townsville General Hospital and many of the state schools. His wages from the cattle property were meant to be sent to Grandma, but were withheld by the State, like other Aboriginal and Islander workers. The money not pilfered by the supervising police was sent to the Queensland Government to build Queensland Infrastructure. As the car sticker says, *Stolen Wages Built this State*.

Whilst my mum had thirteen of her own biological children, she also took in and cared for other Aboriginal and Islander children, who needed support. She was a very talented, strong woman who was self-taught in sewing, and cooking as well as a gifted singer. I have the fondest memories of listening to her repertoire which included great country and western, jazz and blues classics.

Mum also had a very strong social commitment to her people. Thus she assisted with her parents and siblings in supporting Aboriginal and Islander organisations and sporting clubs. She sewed many team uniforms. Mum along with a few other families pushed the pram around collecting signatures, when fighting for the establishment of our services in Townsville. Mum was a supporting founder of the Townsville Aboriginal and Islander Health Service (TAIHS), Yumba Meta Housing Society as well as other organisations. She won many awards and became a prominent Elder in the community.

We lived for many years in a tin shack with a dirt floor, and later in a condemned house. The reason for never having a decent home was because in those days, real estate agents did not give private rental homes to Aboriginal or Islander people. This discrimination could occur at anytime with no repercussions, owing to my people being regarded as 'Flora and Fauna' and not human beings, until 1967 when citizenship was given through a referendum.

Mum made everything look like a palace to us, with her capacity for fancy-needle work. The curtains for example were made from hessian bags; however she made them something of a wonder with her embroidery. She also worked her magic with the old discarded rags that we collected from garages and other places. We would turn up with the most unspeakable rubbish

and Mum, instead of complaining, would praise us. Then she would wash, cut up and sew it all up into patchwork quilts. Talk of recycling! Mum was a pioneer.

As a young girl, my mum worked as a domestic for the owners of Loloma Jewellers and Daydawn florists. She became very skilled and innovative in floral arrangements especially in making bouquets. She could make, as well, full wedding dresses and bridesmaids dresses, as well as men's three piece suits, all on a treadle machine. She would complete entire outfits in a week, whereas other seamstresses would take six months. She had a great skill in being able to look at a dress and then proceed to cut out the pattern, with scissors and newspaper.

As I write now about all that creativity that my Mum displayed, I can see that she really could have been an artist if she had been given the opportunity. She had such a fine natural aesthetic sense. No one taught her however, she could see and create beauty everywhere. Nor was my mother's creativity confined to turning rags into beautiful patchwork quilts. She made scrap meat taste like barramundi and fillet steak.

As well as being creative, Mum was a very strict disciplinarian, and very organised; of necessity I suppose because of the number of children she had to deal with. After divorcing my dad, my mum had two more relationships from which my other siblings were born. Her last relationship, in which she had five more children, was a difficult one. This final relationship was marred by serious domestic violence and abuse which resulted in grave consequences for me and my siblings, who still after all these years, are very hard for me to even contemplate. My own father was such a gentle man that I could not understand or tolerate the violence from this new stepfather and I ran away at the age of thirteen.

After that final relationship ended, and the children were all grown up, my mother spent her last years continually advocating for the rights of First Australian people, and campaigning against violence and abuse. She certainly did not go quietly into 'that good night', perhaps because she was an activist to the very end. I must say that in Mum's last year's we grew very close and we had many sweet times together during her illness. I treasure the memory of those times and of course I understand now that what I was experiencing in her company was the joy of unconditional love and forgiveness. Though Mum was always the strong matriarch, she still showed acceptance strength and wisdom. I therefore try to show my own children and grandchildren, those qualities to honour strong memories of her.

There is one particular thing about my mother that I always pass on to my grandchildren and young friends, whenever the opportunity arises. She regularly told us to go to the butcher's shop to buy off-cuts of meat. We were instructed to inform the butcher that we had a lot of dogs and the meat was for them. For the first few times she gave these orders I was very confused

and indeed troubled. My Grandmother had instilled in me that good people never lied. Yet here was my Mum, one of the strongest people I ever knew, ordering us to lie to the butcher.

Of course eventually I came to understand, that she was worried about the Welfare people taking her children from her if she was found to be feeding them scrap meat. That fear of the State and its mechanisms of control were very real to my mother. Later when I read something of the history of my people I came also to realise that mum's fears were grounded in a very harsh reality. This was also worth noting - an era where First Australian people received no welfare payments from the Government, as we were not citizens. Mum eventually had a stroke and passed away five years ago from lung cancer and the effects of that stroke.

Picture 3.5: Mum and Dad's wedding 1949



Source: Personal collection

My Life

Picture 3.6: Mum Dad and my siblings - 1972



Source: Personal Collection

I was born in Townsville in 1951. We had nineteen children in our family; fourteen in one family, and when my dad remarried, five more children in the other. I am the third eldest. I was fortunate in having a large supportive family, especially my eldest sister, Dorothy. She encouraged me to have a good education and even sacrificed her own education so I could go to school while she stayed home to help with the taking care of the family.

According to my mother, we lived in a tent when I was a baby with another Birrigubba family, named Ross, at Mount Spec. Our two dads had been given the job to assist in building the Mount Spec Water pipeline near Townsville. Both mothers struggled to make ends meet, while the Dads laboured long hours for very little wages. Our next move was to a community in Garbutt, where lower socio-economic people lived in asbestos and fibrolite housing. At times our families had up to twenty people living in two to three bedroom homes, sharing communal toilets and laundry. My first primary school was at Garbutt Townsville where we were very happy. All the families both black and white shared everything.

At school social studies was not a subject that the Indigenous students, including myself liked. As the teacher would constantly make us feel uncomfortable. His special party piece was to show pictures of 'the savage natives spearing the whites'. At School we were meant to believe that Captain Cook discovered Australia, whilst at home we were taught the opposite. Sports

were the domain where most Indigenous students excelled, winning prizes for our school. There was a bitter side to all that sporting triumph. Naturally, we enjoyed the limelight and our fifteen minutes of fame. We were always aware of the contrast with the normal insulting behaviour meted out to us when we were not competing in sports such as derogatory names like 'nigger', 'coon' and 'boong'.

During our time in Garbutt, many sporting teams were formed, including the Garbutt Magpies, whose colours were black and white.

After a few years, my mum started her next relationship and we moved to Aitkenvale where we lived in the tin shack with dirt floors, and no electricity. The same situation occurred at Aitkenvale school where again I was doing poorly at academia, but brilliantly at sport. The same social studies program, Aboriginal people were negatively stereotyped. This was an essential component of the curriculum at this school.

Our next move was to the condemned house on Castle Hill in West End, Townsville. The house was connected to the main street by a goat track. There is a particular story attached to the word 'condemned' that I can now smile about. One morning a council worker came by our house and put up a signpost. We children gathered to see what he was doing. He stuck a notice on the post with the solitary word 'Condemned'. I did not understand the meaning of the word and in some ways I still don't. We children had no understanding of what this meant, and wandered off to play. I was, however, fascinated always by words and I stood there sounding it out until I had committed it to memory. At school that morning I took the first opportunity to announce that I had learned a new word that I had seen on a notice outside our house. The teacher asked me to write it on the board. I went up and proudly and boldly wrote 'condemned'. The teacher rubbed it out quickly and kindly distracted the class from asking what it meant.

Whilst the situation of my poor academic performance continued alongside my high success in sport, seemingly, none of the school staff questioned this. I know now that I was performing exactly in line with the low expectations that the staff had of me and the Aboriginal and Islander pupils. Eventually, a turning point in my life occurred.

In Grade 5, an Aboriginal school teacher named Mr Phillip Stewart walked into the classroom and stated, 'Good Morning students'. My name is Mr Stewart and I want to be called 'Sir'. I come from a community called Palm Island. My friend Mr Mick Miller and I did our teacher's training at Kelvin Grove College in Brisbane. I will be teaching you the true history of this country and for a start Captain Cook did not discover Australia'. Mr Stewart also acknowledged that he was related to all the Aboriginal students in the class, including myself.

From that day, my life changed in terms of wanting to study harder. This amazing man called all the Aboriginal and Islander students together for a meeting and said, 'You Aboriginal kids are great at sport, but sports alone will not get you a good job. You have to be good at the 3 R's and have a balance in life, as racism is a fact of life and I have experienced it myself'. Within three months, after intensive tutoring from Mr Stewart, I was one of the top students in the class.

Mr Stewart reminded Indigenous students we couldn't all play A-Grade Australian Rules Football, run races or box like Lionel Rose. We had to use our brains, not our brawn, to achieve results and reach for the skies. Mr Stewart organised homework groups, and encouraged my cohort and I to 'never give up'.

My introduction to the heady world of high expectations was so successful that after a short time my near-illiteracy turned to literacy. So much so, that in my last year of primary school I won the 1960's version of the quiz 'Are You Smarter than a Fifth Grader'. This was held by the local television station. The contest, 'Fun with Words' was organised amongst all the local primary schools and when I won, the prizes was a trophy for the school and grocery vouchers for my family.

During my years of high school, I scrubbed pots and pans at the Seaview Hotel to assist with my education costs. I still remember going to the Hotel and lying to the owner about my age so he would employ me. It was illegal for someone of my age to be even admitted to the pub. He knew of course that I was lying, though he also understood why I needed the job. Both he and his wife set me to work helping look after their children, who I am still friends with, to this day.

After completing Grade 10 with excellent marks, I was unemployed for 12 months because of my Aboriginality. Not many jobs were offered to Aboriginal and Torres Strait Islander people in those days. I then decided to go into nursing, one of the few areas available to us. I completed my four years general nursing in 1972, and then a one year midwifery course at the Townsville Base Hospital. Throughout my nurse's training my shoes had to shine. My dress had to be spotless, exceeding the shine and pristine white of the other nurses on the course. The views some of my superiors held towards Aboriginal and Torres Strait Islander people required this.

Picture 3.7: Gracelyn's Graduation 1973 Registered Nurse (RN) and Midwife



Source: Personal collection

While working as a nurse, there was an unwritten rule that Health Workers in the Aboriginal Health program for Queensland Health were required to tie a piece of string around the tea and coffee mugs. That was to ensure that white nurses would not have to share a mug with the Aboriginal Health Workers and run the risk of contamination. I mention this, because it was just one of the many small petty ways in which we were reminded of our inferior status and of the barriers that still lay in our way.

I later completed a Certificate in Indigenous Mental Health at the Townsville Aboriginal and Islander Health Service. This service was founded by Elders in our community. I assisted in its establishment by working voluntarily as a Registered Nurse / Midwife for 12 months. It was there I met with Papago Indians from Arizona, who had come to see how our health service operated. They took our lessons back to their reservations. We later repaid the visit to their Clan to study their medical techniques. My experience in conversing with the Native Americans helped me greatly to understand the Indigenous world view. Ours was once a total way of life designed to create harmony with the world and not to attack it or attempt to destroy it. We could do well to recapture some of that spirit now.

I then travelled around Australia working as a Registered Nurse and Midwife in rural and remote communities. Many of these communities, particularly those in the Pitjanjarra lands had

no electricity or phone lines. Yet even in the worst poverty, I saw and still see among my people a striving for dignity and an urge to improve their health and wellbeing.

In 1976 I was awarded an Aboriginal Overseas Scholarship to study comparative Indigenous health services in New Zealand and America. I reunited with the Papago, Native American people, and was interested in their use of satellite communication that assisted them in delivering expert medical care to their clans. Many of their people lived in rural and remote areas. Like many First Australians, the Papago people were often hundreds of kilometres from medical centres. In particular, it was very difficult to transport the very young and the very old to where they could receive treatment, so the Native health workers solved that problem by taking the medical centres to the people. English was usually a second language and non Indigenous staff found it difficult to relate to the First Nations cultures and beliefs.

This lack of understanding of non Indigenous people is demonstrated, very clearly by a very personal and painful experience around the death of one of my children. Near the end of my pregnancy, I was taken to hospital in great pain by my then partner. Though I was an experienced midwife and a colleague, there was little cultural understanding and safety afforded me by the Nursing staff. My cultural beliefs of telling the staff of our death totem that had appeared to myself and my mother was ignored. They diagnosed my agitation as being psychotic and administered two injections of largactyl to me over a two hour period. This was done over my protests and the more I protested the more they determined they were that I was psychotic. As a result of this treatment my baby died in my womb and remained there for 48 hours. Whilst this happened some twenty five years ago, I know that women readers especially will understand when I say it is a wound that has never healed. I mention this personal case history because so many of my people have had similar experiences in the western medical system where our feelings and culture have been ignored.

Birth and Trajectory of an Activist

My sister Dorothy tells a story of how I always used to go around the neighbourhood watching and listening. If I ever came across a case of the abuse of children or women or domestic violence I would run and tell my mother and grandmother who would intervene to assist the victims. I often reminisce on those days as the beginning of my life as an activist. I am all too aware that to be an activist is to invite either sneers or outright obloquy. The most recent example of this that I have come across is Noel Pearson's reference to 'campaign blackfella' (quoted in Morton, 2011, p.12).

I tend to dismiss such remarks as being driven by a conservative desire to protect the status quo. I am also very mindful of the remarks of the great Afro-American activist Frederick Douglass. Before the outbreak of the American Civil War in 1857 he said:

The whole history of the progress of human liberty shows that all concessions yet made to her august claims have been born of earnest struggle. The conflict has been exciting, agitating, all-absorbing, and for the time being, putting all other tumults to silence. It must do this or it does nothing. If there is no struggle there is no progress. Those who profess to favour freedom and yet deprecate agitation are men who want crops without ploughing up the ground; they want rain without thunder and lightning. They want the ocean without the awful roar of its many waters.

This struggle may be a moral one, or it may be a physical one, and it may be both moral and physical, but it must be a struggle. Power concedes nothing without a demand (Douglass, quoted in Blackpost.org, 2011).

It is not my purpose in this chapter to write a history of the protests of the First Australians. I concentrate rather on two events The Tent Embassy in Canberra in 1972. The second event and one which I was very inspired by was The Commonwealth Games Protests of 1982. The Tent Embassy was sparked by an extremely offensive speech by the then Prime Minister William McMahon on Invasion Day January 26, 1972. He closed off the possibility of land rights for our people saying that to grant such rights:

would introduce a new and probably confusing component, the implications of which could not be clearly foreseen and which could lead to uncertainty and possible challenges in relation to land titles elsewhere in Australia which are at present unquestioned and secure (McMahon, quoted in *The Australian*, 1972).

McMahon was acting against the advice of his advisor H. C. Coombs who had urged him to grant some land rights, specifically to the Yirrkala people (*The Australian*, 1972). Clearly behind McMahon was a range of pastoralist and mining interests.

The response of my people was immediate. Four young activists from Redfern set up a tent Embassy. The following is a rare picture of these heroes: Gary Foley, Michael Anderson, Dennis Walker and William Craigie (deceased),

Picture 3.8: Aboriginal Tent Embassy Activists 1972



Source: <http://www.kooriweb.org/foley/images/history/1970s/emb72/founders.html>

It was discovered that there was no law against such an act. The Federal Government proceeded to pass such a law and the Tent Embassy was taken down. It was then promptly put up again.

It is difficult to convey now across the gap of the years the pride and joy and anger that swept through us - the First Australians. Our people were fighting back. No other protest signalled that fact so clearly.

The Australian Labor Party under Opposition Leader Gough Whitlam went and negotiated with the representatives of the First Australians. The demands put to him were the following:

1. Control of the Northern Territory as a State within the Commonwealth of Australia; the Parliament in the NT to be predominantly Aboriginal with title and mining rights to all land within the Territory
2. Legal title and mining rights to all other presently existing Reserve lands and settlements throughout Australia
3. The preservation of all Sacred Sites throughout Australia
4. Legal title and mining rights to areas in and around all Australian Capital Cities
5. Compensation monies for lands not returnable to take the form of a down-payment of six billion and an annual percentage of the gross national income (Newfong, 1972)

We were not of course to get all these demands. Moreover the years since have seen a steady whittling away of the concessions that were granted. Nevertheless a new radical nation, that of the First Australians, was born in January 1972 and it still lives.

The next largest public struggle and one that I personally took part in was around the Commonwealth Games in 1982. The State of Queensland under the Bjelke Peterson government took upon itself a year before the Games, the power to ban any form of protest; the power to remove any person from the Games; and the power to enter and search the homes of anyone they suspected of organising against the Games. This produced a political climate which Civil Liberties lawyer Terry O’Gorman described as ‘grim’ and creating a ‘police state’ (O’Gorman, 1981). If that was not enough on the eve of the game’s Premier Petersen declared a State of Emergency. There were to be 12 such decrees over the four decades of his party’s rule (Evans, 2007).

Still we ‘campaign blackfellas’ decided to ignore the threats and to take our cause to the streets. We set up our tent city in Musgrave Park Brisbane. This is a place sacred to First Australian people and we reclaimed it for the entire period of the Games. There was no drug taking and no physical or mental violence in our tent city. For two weeks we organised ourselves, distributed food, looked after the old people and the children and published our ideas and discussed policy openly in a Murri and Koori way. We were a proud and a free people and we showed that to the world.

Picture 3.9: Demonstrators at Commonwealth Games, Brisbane 1982



Source: The Koori History Website: <http://www.kooriweb.org/foley/images/history/1980s/82games/gpx5.html>

The climax of our protest was the march on the Games' Headquarters. After long and extremely democratic discussions we agreed to split our forces. A group of us was to take the protest right into the Games itself, while another group was to attempt a march on the venue. I was part of the group chosen to march on the Games. The other group entered the arena and sat down and unfurled their banners (see Picture 3.9 above). The police came from everywhere; however we ignored them and sat quietly making our protest and taking our message to the world.

The march outside was attacked by the police and many activists were arrested, including myself. We had, however, made our point clear. There was no doubt that we demonstrated to the world that the spirit of the Tent Embassy was still alive and we wanted Land Rights not Native Title.

Our decision to protest was not without opposition from some within the Indigenous community. The late Senator Neville Bonner headed that opposition. He came and spoke at one of our rallies and urged us not to march. His speech was heckled by some activists who were angry at what they perceived as his betrayal.

Bonner cut a strange figure that day. He was decked out in gold jewellery and a safari suit with a tiny Aboriginal flag sewn into the breast pocket. To me the imbalance between iconography of the bling and the suit and that of the flag signalled a man who was attempting to straddle two worlds but who was mainly rooted in that of the white man.

I will never forget what happened after the heckling of his speech grew ever louder. Bonner suddenly sat down and began to sing a traditional mourning chant in his own language. He beat his head and cried aloud, (see picture below). When he had finished Bonner got up and shouted 'That is mine! It belongs to me! You cannot take it away from me!'

Of course none of us wanted to take his culture away from him. We were there for the very opposite reason. We wanted to create a space for First Australian culture to survive and thrive and flourish and develop. It seemed too many of us activists, that Bonner was using the traditional culture against us and that made many very angry. I myself felt very saddened by what I perceived as Bonner's personal tragedy.

In any event Bonner was shortly to lose endorsement from the Liberal Party at the next election and he was to fade into obscurity. My thoughts on all this were that Bonner was one of those tragic figures who have attempted to straddle two worlds but ended up belonging to neither.

Picture 3.10: Senator Bonner



Source: <http://www.kooriweb.org/foley/images/history/1980s/82games/gpx21.html>

The generation of activists who staged these great protests is now old and many have also passed away. I still remain good friends with a large number of them, especially Michael Mansell, Paul Coe, Gary Foley and others. The fire of protest still burns brightly in their hearts despite the weight of the years.

It should be clear, though, from this thesis that I no longer consider Marcia Langton and Noel Pearson to be a part of the radical tradition. This is a personal grief to me as they were people whom I admired. Politically Pearson and as well in her own sporadic and incoherent fashion Marcia Langton have carved out for themselves a political space which they describe as the ‘radical centre’ (Pearson, 2000; 2007).

Pearson’s views were to be enthusiastically received by many White Australians. His critique of ‘passive welfare’ fell on welcome ears (Pearson, 2000). It is one of the ironies of history that Pearson’s move to the political right was launched at the 2000 Ben Chifley Memorial Lecture. Many White Leftists and progressivists have been extremely slow to grasp that Pearson is no longer on the Left.

The Right were much quicker to understand where Pearson was heading. His diatribe against welfare chimed perfectly with the dominant neo-liberal view of the world. In the years since it has, become clearer and clearer, that the so-called new ‘radical centre’ that Pearson so proudly claims to belong to, is just another version of the Old Right. Pearson now campaigns openly for the Liberal Party and while he is of course entitled to do that, he can in no sense claim that he is still in the centre of Australian politics. The verdict on Pearson’s politics which I share is that he is now telling White Australians what they want to hear (Graham, 2010). Moreover I can personally endorse Graham’s estimation of the attitude that First Australians now have towards Pearson though it gives me no joy at all to do so. Graham has written:

He [Pearson] is, by quite some margin, the most loathed man in black affairs. It's a fact Pearson himself acknowledged in a recent interview, describing the perception of him among black Australians as 'the antichrist'. I think he's being generous (Graham, 2010).

What though of Marcia Langton? She was nothing if not one of the greatest of First Australian Activists and she played a wonderful role in the Commonwealth Games Protests. Again it pains me to say that the conservative commentator Geoffrey Partington was devastatingly correct in his analysis of the inconsistencies in Langton's politics (Partington, 2010). Let me be clear here, I do not endorse Partington's complaints against Langton's lack of 'civility'. The powerful always whinge about the ingratitude of those they dominate. However what Partington does reveal in his analysis is an inconsistency in Langton's public pronouncements. As a consequence of that inconsistency I can no longer recognise the Langton I once knew. Thus her very latest statement on the legacy of the activism that she once espoused and led is particularly saddening for me to read.

She sums up that legacy thus:

...the suffering in Aboriginal communities has become [much worse] in less than four decades – that is, in the period when self-determination and land rights were intended to improve Aboriginal People's lot (quoted in Morton, 2011).

Where to begin to answer this silliness? For a start, Langton glosses over the fact that John Howard was Prime Minister of Australia from 1996-2007. His period in office can by no stretch of the imagination be said to be underpinned by a commitment to land rights and self-determination. He began by cutting funding to Aboriginal and Torres Strait Islander organisations and ended by abolishing ATSIC.

Langton could also do well to go back to Newfong's 1972 article and read carefully the demands that were put to Gough Whitlam. If we had gotten those we would not now be living in abject poverty. The activists' demands were refused and that refusal is part of what has condemned the First Australians to a life of poverty.

Conclusion

From the world of personal memories of the past, I now turn to consider the past of the First Australians. In so doing I address the struggle over how that past should be remembered.

Chapter 4. The Tradition of all the dead Generations... the Tradition of all Indigenous Generations...

The earth was created by the assistance of the sun, and it should be left as it was...The country was made without lines of demarcation, and it is no man's business to divide it....I see the whites all over the country gaining wealth, and see their desire to give us lands which are worthless...The earth and myself are of one mind. The measure of the land and the measure of our bodies are the same. Say to us if you can say it that you were sent by the Creative Power to talk to us. Perhaps you think the Creator sent you here to dispose of us as you see fit. If I thought you were sent by the Creator I might be induced to think you had a right to dispose of me. Do not misunderstand me, but understand me fully with reference to my affection for the land. I never said the land was mine to do with it as I chose. The one who has the right to dispose of it is the one who has created it. I claim a right to live on my land, and accord you the privilege to live on yours.

(Heinmot Tooyalaket (Chief Joseph) of the Nez Percés, quoted in Brown, 1991, p.316).

This chapter discusses the history of the First Australians that has been portrayed in 'mainstream' Australia; it particularly critiques the work of Windchuttle, and Johns, and provides some further views about Government approaches to Indigenous people in this country. In that dialogue I briefly discuss the 'Stolen generations' and provide an alternative slant on the history of my people.

The Aboriginal people of Australia have the longest continuously running culture of all peoples in the world. We have been on this ancient land for over 60 000 years. Pre-contact, we were totally dependent on the land and all it could provide. It is important to bear in mind that, 'Asian and Oceanic mariners and traders were in contact with First Australians for many centuries before the era of European invasion. Some formed substantial relationships with communities in northern Australia' (Australian Government: Department of Foreign Affairs and Trade). I wish to emphasize this point here. It is vital to take on board Richard Trudgen's comment that before the onset of colonialism the Yolngu people of North-East Arnhem Land traded nationally and internationally. This was stopped by the colonial authorities (Trudgen, 2010a, p.19).

The sea people were similarly reliant on what they could gather and hunt from the sea and seashore. To survive and thrive, our people developed societies that enabled them to successfully use their often-harsh environment. These social organisations were glued by strong family bonds, which were of a kind neither recognised, nor understood, nor valued by the invading Europeans 221 years ago.

Here Gregory D. Smithers (2009) has argued that the ‘civilisation’ that the white colonialists sought to impose, was based on an ideal of a social order where the key ingredients were a nuclear marriage with a faithful wife who acted as a caregiver. Moreover sexual activity was to be reproductive in intent and kept within marriage. The colonial order (contra Windschuttle, 2004) was of course racially as well as ‘morally’ based. The working premise here was succinctly stated by the British ethnologist James Cowles Pritchard, who wrote:

Wherever we see any progress towards civilisation, there we also find deviation towards a lighter colour and a different form, nearly in the same proportion (quoted in Smithers, 2009, p. 265).

It is this that gives us an understanding of the following pictures from A. O. Neville’s (1947) *Australia’s Coloured Minority*. Neville was the Chief Protector of First Australian People in WA from 1915-1945. His views on race and colour were summed up in the following quotation:

The children portrayed in Photographs. 4.1 and 4.2 in this view, were close to perfect, i.e. white, but alas not quite there.

Picture 4.1: Child



Picture 4.2: Caption says “3 white girls



Source: Neville (1947)

The views of Neville and the other white colonialists were then at odds with the prevailing norms that existed prior to 1788. I wish to emphasise strongly the importance of this contrast and the picture I have presented, however brief, the way of life of my people pre-colonisation. I do so to counter the attempt to see pre-colonial Australia in terms of the sort of ‘state of nature’ famously outlined by Thomas Hobbes in his *Leviathan*. There Hobbes wrote:

Whatsoever therefore is consequent to a time of war, where every man is enemy to every man, the same consequent to the time wherein men live without other security than what their own strength and their own invention shall furnish them withal? In such condition there is no place for industry, because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving and removing such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short (Hobbes, 1651).

Manderson (2008, p.235) argues persuasively that there is a long history of seeing Indigenous Australia in Hobbesian terms. Thus Governor George Arthur (1822-1837) thought of the First Australian Tasmanians as 'unhappy savages' (quoted in Manderson, 2008, p.234). Lest it be thought I exaggerate when I allege there is a continued attempt to construct the culture my people created before colonialism as nasty and brutish. I would refer to the then Prime Minister's remarks about the children in the Northern territory 'living out a Hobbesian nightmare' (Howard, quoted in Rebecca Stringer, 2007). This theme was echoed by Professor Marcia Langton (2008) in her defence of the Northern Territory Intervention, a topic that is addressed more fully in Chapter Eight. Langton (2008) criticised the sustained fantasy that 'until colonisation, life for Aboriginal people was peaceful and idyllic'. In the same article she comes close to arguing the Hobbesian view when she suggests that 'violence –sanctioned and illicit- was the norm' in Aboriginal society (2008).

There is also the more recent endeavour in Sutton, 2009, to characterise First Australian culture as violent and brutal especially in terms of its treatment of women. Even more recently in his debate with Richard Trudgen, Gary Johns would appear to be channelling Hobbes in his description of the traditional way of life of the Yolngu people. Johns argued:

Yolgnu people survived under difficult circumstances and lead very short and very harsh lives. They did not read and write they had no science, they had little insight into how their physical world worked. They simply consigned all adverse and favourable events to ceremonial responses. There was never enlightenment for the Yolgnu. The unexplained was not responded to in a rational manner, it was met with suspicion and brute force (Johns, 2010b).

Johns here and elsewhere appears to start from what Charles Taylor has elegantly described as a 'pre-shrunk moral universe' where it is taken for granted that Indigenous Australians has

nothing to say to Non-Indigenous Australians about what is of worth or what is good to them (Taylor quoted in Perry, 1997, p.481). Nor does Johns explain to us in any of his writings how much of a role the Enlightenment played in the British colonial conquest of Australia. Nor does he choose ever to dwell much on the violence and suspicion that characterised the same colonial enterprise. How enlightened one wonders were the white officers of the Queensland Native Police? It should suffice here to point out that Hobbes' 'state of nature' model is an abstraction without empirical foundation. It may have seemed to Hobbes, writing as he did in the midst of the English Civil War as an accurate way of describing human nature. However he cannot be described as an accurate description of what Bhaskar (2002) has termed the ground state of humanity, especially the First Australian humanity, for that same humanity would not have reproduced and even flourished if all had been as the 'state of nature' theorists would have it.

The initial absence of understanding or empathy towards Indigenous Australia that the Colonisers exhibited, has reached quite horrifying dimensions. Consider for example this official report from 1935 and bear in mind that the language is that of officialdom.

Dealing with half-castes...Dr Bryan has spoken strongly against the mating of half-castes with half-castes, on the ground that it will perpetuate the black and coloured elements. And still, without advocating the marriage of whites and half-castes, he does support the mating of a half-caste with a coloured person higher in the white scale. To further this scheme, he says, we should do all in our power to prevent a half-caste marrying another half-caste, and to encourage him or her to look higher. This, of course, can only be done by throwing these people together and hoping for the best, and this is just what in other words, I have been advocating when suggesting the Community Settlements, where these coloured people, or half-castes, as I have called them (without reference to the degree of colour in them), will live their lives together under proper supervision (Moseley, 1935, p.8).

The concern here is clearly to 'breed out the colour' as the final solution. Though Henry Doyle Moseley (1935, p.5) cannot quite bring himself to contemplate the solution of what he terms 'miscegenation- the mingling of the blacks and whites by intermating'. He also expresses his gratitude that Dr Bryan is also an opponent of this policy (Moseley, 1935, p.5).

Lest it be thought I am being unfair in that Moseley was not a representative type let us go to Dr. Walter D. Roth, the Chief Protector in Queensland.

Reporting on his first visit to Cherbourg, Roth expressed the following concern:

There are four quadroon female children on the settlement of about 8, 9, 11 and 13 years, respectively. They are attending the school, but of course are living in the camp. It would be a good act if they were removed to a 'white' orphanage as suggested in your report to the Minister some time ago. Personally I consider the leaving of quadroons in blacks' camps is the greatest blot which could be placed on an administration aiming at the protection of the Aboriginal race. The ultimate end of the Aboriginal race is that they will become half castes etc. and should not this racial waste be checked by rescuing the quadroons etc. (Roth quoted in Sarra, 2007).

In a similar vein, the Governor of Queensland, Sir Leslie Wilson following a visit to Cherbourg in 1934 wrote to the Deputy Premier, Percy Pease:

Unfortunately, the increase in numbers is not due to births of full blood natives, but of half-castes, and this point is of great importance in the future. Many of the girls are sent out to stations or farms as 'helps', and that 95% of them return to the settlement, either about to have a child, or who have had a child, the father of which is a white man. I, myself, saw many young children there, of such fair colour that one would think they were entirely white born. The trouble is, that the dark blood never disappears, and the children of the next generation may well be, and often are, dark coloured, even if the fair half caste marries a white man (Wilson quoted in Sarra, 2007).

Revolting as all these views are it is worth bearing in mind that as late as 1948, my people could be described in another official report as 'a nomadic, idle and discontented race' (Bateman, 1948, p.26).

Moreover in his discussion of the education of Indigenous children Bateman has this to say of the children and their parents:

How possibly can [Aboriginal] children progress when after the day's schooling is over they are forced to return to the disgraceful verminous conditions of native camps, where six or seven children together with their parents and perhaps an adult relation or two and more often than not a dog, occupy on a communal basis, a shack, inadequate in size and constructed of old kerosene tins and bags. Can it be wondered if their moral codes are low? This hovel which is never weatherproof but full of draughts and leaks is their home, the only one they have ever known. Is

it not the natural consequence that these children, reared in such conditions, will grow to be counterparts of their parents, unclean, idle and useless creatures; in fact there is every possibility that they will develop into lower types than the native adults of today (Bateman, 1948, p.26).

Bateman here is describing the victims of poverty, and he has no compunction about blaming them. Yet in the same report he concedes that in the Pastoral industry many of the workers did not receive any pay (Bateman, 1948, pp.16-18). Moreover as Quentin Beresford points out the squalid conditions alluded to by Moseley and Bateman were a consequence of the official policy of segregation (Beresford, 2004).

Outside the circle of official reports and debates, the language could be even more offensive as is illustrated by this complaint from an anonymous white pastoralist sometime in the 1960s about people in the south of WA. These liberal thinkers were he said:

... as blind as bats where coons is concerned. Half of 'em never seen a nigger in their lives, yet all they talk about these days is how to 'uplift the poor blackfeller'... I've known a few that needed it, and I've uplifted 'em – on the toe of my boot (quoted in Biskup, 1968, p.448).

Attitudes which in many ways were not dissimilar have prevailed up until today (National Aboriginal Health Strategy, 1989). More recently they have been given an inflection increasingly influenced by a pro-market neo-liberalism which *à la* Francis Fukuyama views capitalism as the triumphal end of history. Thus writing in the *Capitalism Magazine* Alan Lewis of the Ayn Rand Institute intervened in the debate over whether the then Prime Minister John Howard should apologise to First Australians, for the Stolen Generations. Lewis (2000) urged the Prime Minister not to apologise, largely it seems because he thought First Australians were not worth the apology. He wrote:

In their 50,000 years of completely unrecorded history (which alone should indicate the extent of Aboriginal 'culture') their technological 'achievements' amounted to the 'invention' of a bent throwing stick, and their artistic accomplishments rose to the level of banging sticks together and blowing through a hollowed-out log. No *longevity* of traditions can make up for the fact that in 50 millennia they did not even *discover* the wheel (Lewis, 2000).

Their moral and political 'accomplishments' were equally underwhelming. By any objective standards, there is no culture to speak of, and there is no rational reason for any civilised culture

to recognise its alleged existence, particularly when Aborigines today—like many ‘American’ Indians--refuse to recognise the value of industrial civilization (Lewis, 2000).

Lewis’ arguments here are repugnant. Yet Keith Windschuttle in his discussion of the nature of Tasmanian society, as we will see below, echoes Lewis’ approach when he alleges that the Tasmanians had not discovered fire (Windschuttle, 2002, p.377). Similarly Professor Kenneth Minogue (1998) in an address to the right wing think tank, The Samuel Griffith Society, affirmed not only the technological superiority of Western culture, but also its moral superiority because this was marked by a ‘detestation of slavery, rejection of caste systems, of cannibalism and the inferiority of women’ (Minogue, 1998).

So how can White Australia have some understanding of the lived experience of the First Australians? The need is great for without such an understanding, no proper Reconciliation is possible. Both sides must try to enter a dialogue. However in this dialogue it is the right of the traumatised, that is Australia’s First people, to speak and it is the duty of White Australians to listen.

To put the argument in these terms, of right and duty, is from the outset to treat the issue of rights as non-problematic. I hope in what follows to demonstrate that, although I am a strong supporter of the demands of rights for my people, I am not unaware of the need in the current climate that the case for rights is not self-evident to most of my countrymen and women.

Time and Indigenous Australia

The Cambridge philosopher J.M.E. McTaggart (1993) adapted a position that time was unreal. The details of the argument here need not concern us. What is specifically useful in McTaggart’s work for my purposes, though, is his division of time into Series A and Series B. Series A consists of the Past, the Present and the Future. Series B deals with events which are earlier, simultaneous or later (McTaggart, 1993, p.24). I accept the Bhaskarian position that both series A and B are real, and moreover that Series A cannot be reduced to Series B (McTarget, 1993, p.251). In sum then I accept the position that time is real and it is tensed.

This position gives us I would argue, a way to understand the different attitudes towards time that First Australians and Non-Indigenous Australians have. In the debate over the Apology that so defined Prime Minister Howard’s relationship towards Indigenous Australia, Howard argued in effect that an apology was not necessary. Thus, when he addressed a largely First Australian conference in 1997 he refused to apologise because he believed that his generation was not responsible for the past. Not content to leave matters there he also denied that ‘the

history of white settlement of Australia was one of imperialism, exploitation and racism' (Wilson Da Silva, 1997).

Let us contrast Howard's attitude towards the past as displayed in his 1997 speech with one he gave to commemorate the Gallipoli Landings. The whole tenor of his speech on this occasion was to affirm the importance and indeed the sacredness of the events at Anzac Cove in 1915. He said:

They [the Anzacs] bequeathed Australia a lasting sense of national identity. They sharpened our democratic temper and our questioning eye towards authority... History helps us to remember but the spirit of Anzac is greater than a debt to past deeds. It lives on in the valour and the sacrifice of young men and women that ennoble Australia in our time, in scrub in the Solomons, in the villages of Timor, in the deserts of Iraq and the coast of Nias. It lives on through a nation's easy familiarity, through Australians looking out for each other, through courage and compassion in the face of adversity (Howard, 2005).

I do not wish to question Howard's sincerity here, nor am I making a comment on the politics of the Anzac tradition. I wish to highlight the contrast here between Howard's attitude towards the past of First Australians and that of Non-Indigenous Australians. For him our past belongs to series B. That was then and it has no relation to Australia's now. However for Howard the Anzacs occupy a sacred place in Series A. Their past lives on in the present and even shapes the future. My argument here is that what is good enough for the Anzacs should be good enough for the First Australians and Torres Strait Islander people of Australia.

An even grosser example of the insensitivity of the First Australians past and of a determination to consign it permanently to Series B occurred when Windschuttle was accused of showing a lack of compassion in his account of the fate of Tasmania's Aborigines. He replied 'You can't really be serious about feeling sympathy for someone who died 200 years ago' (quoted in Macintyre, 2003, p.215).

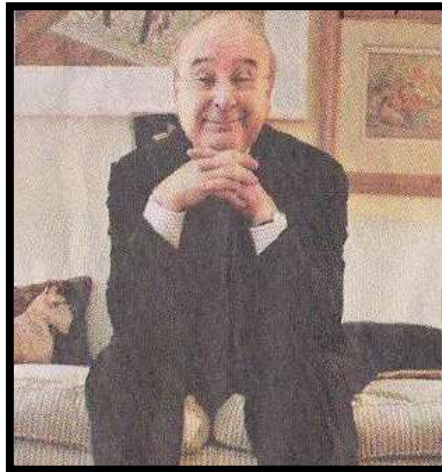
What Howard and Windschuttle seemed incapable of understanding were the feelings of my people towards our past. Yet my whole family remembers my grandmother telling of her terror when the police broke into her house at 4.00 am on the 13th June, 1957 to arrest my grandfather and put him in chains (Watson, 2010, p.112).

When Howard talked of James and Janet Hallahan of WA who lost four sons in WW1 or when he talked of Noel Edwards sharing a last meal with his mates Gil and Curly before going to die on the Ridge of Blood, I am sure he had true tears in his eyes. But who tells the story of the last

charge of the Kalkadoon people at Battle Mountain (Grassby & Hill, 1988, pp.268-9)? Where is the memorial? It lives on only in the hearts and the minds of my people when they get to know their own history, their own Series A, mention of which leads inevitably to a fuller consideration of the work of the historian Keith Windschuttle.

Facing up to Windschuttle

Picture 4.3: Keith Windschuttle



Source: http://www.bilegrip.com/archives/2006/06/stacking_the_abcs_board_with_howards_fascists.html

I will have occasion to refer to Windschuttle's views again in this thesis, but here I wish to deal briefly with Volumes One and Three of his *The Fabrication of Aboriginal History*. They deal respectively with the conflicts in Tasmania (*Van Diemen's Land 1803-1847*) and the *Stolen Generations 1881-2008*. These are massive tomes amounting to some 1200 pages. Generally they have been reviewed favourably in the Right wing media (Coleman, 2002, Devine, 2004, Bolt, 2010; Murray, 2010) but much less favourably by other professional historians and those on the Left (Ashenden, 2010b; Attwood, 2005; Beams, 2003; Brantlinger, 2004; Breen, 2003; Gould, 2000; Grieves, 2003; MacIntyre, 2003; Manne, 2006; Munro, 2007; Parry, 2003, 2007; Quiggin, 2003; Ryan, 2003, 2010; Stearns, 2003).

I will not endeavour to answer Windschuttle in depth. Such an undertaking would take me beyond the scope of this thesis. Nevertheless his work must be addressed with regard to relations between First Australians and Non-Indigenous Australians. It is an important part of the formation of what I have come to see as the neo-assimilationist movement. This movement as I hope to show has the effect of restricting and even rolling back Indigenous Human Rights.

Despite my rejection of Windschuttle's approach and his conclusion, as Henderson (2004) has pointed his 'revisionism is essential reading for anyone who wishes to join the debate on

Australian history'. The terms of that debate were laid down by the then Prime Minister John Howard when he said in 1996:

[There is a challenge] to ensure that our history as a nation is not rewritten definitively by those who take the view that Australians should apologise for most of it. This 'black armband' view of our past reflects a belief that most of Australian history since 1788 has been little more than a disgraceful history of imperialism, exploitation, racism, sexism and other forms of discrimination. I take a very different view. I believe that the balance sheet of our history is one of heroic achievement and that we have achieved much more as a nation of which we can be proud than of which we should be ashamed (Howard, quoted in Stearns, 2003, p.493).

I believe it is fair to say that Windschuttle's work on First Australian History is designed in the same spirit as Howard's speech. Indeed one can almost describe Howard's sentiments as Windschuttle's order of battle.

In what follows I have chosen to concentrate on his political characterisation of Tasmanian First Australian resistance to colonialism especially in his depiction of the role of the Gai-Marigal man, Musquito (Windschuttle, 2002, pp.65-72). That will be followed by an attempt to answer Windschuttle's attack on the concept of the Stolen Generations concentrating particularly on his chapter on the film *Rabbit Proof Fence*.

Musquito

Windschuttle begins his account of Musquito's actions in Tasmania under the subheading of 'The career in crime of Musquito, 1823-1824'. As Parry (2007) points out the trope of Musquito as criminal or outlaw is a significant one in that it serves to obscure the transgressions of the white settlers and serves to shield the colonial project itself from criticism. Equally importantly it serves the purpose of the depoliticisation of Musquito's life and death. This is of course what Windschuttle seeks to achieve.

In resorting to the tropes of criminal and outlaw to depoliticise and to demean the Tasmanians, who fought against the colonists, Windschuttle is following in a long tradition of pro-colonial writers. Thus it is significant to compare his characterisation of Musquito with those employed in Palestine during the Arab Revolt of 1936-9. Again as Townshend (1988) points out there was an initial reluctance on the part of the British Authorities to admit that they faced a political uprising. This reluctance was of course at least partly due to the racist attitudes towards Arabs (Townshend, pp.919-920). However as Arab resistance continued the British were forced to

realise that they confronted 'rebels rather than mere bandits, criminals, highwaymen or sheep-rustlers'.

Windschuttle makes no comparable concession in his analysis of the Tasmanian revolt. In the case of Musquito his target here is the reading of Musquito as hero and war leader. This reading of Musquito is very important to First Australian people and it was given its most cogent form in Gary Foley's talk on First Australian History. He said in an effort to counter the myth that there had been no First Australian resistance:

Ever since Captain Cook's arrival, there had been organised resistance by Aboriginal people to the invasion of their land. You've all heard of Sitting Bull and Geronimo and some of the great Indian leaders, but how many of you have heard of Nemaluk and Musquito? For these are the equivalents, despite the myth that has been deliberately created in this country, that Aboriginal people passively accepted the invasion of their land (Foley, 1988, p.203).

Musquito as a key rebel leader in the Tasmanian context appears in Grassby and Hill (1988), although it must be said that Windschuttle does not refer to Grassby and Hill's work. The latter described Musquito as:

...one of the war leaders in the Hawkesbury River and Broken Bay regions of New South Wales. He had been captured and imprisoned on Norfolk Island before being sent to Tasmania in 1813 and put to work as a stockman for one of the first English settlers, Edward Lord. The lieutenant-governor, Colonel William Sorell, sought Musquito's help to capture the bushranger, Michael Howe, promising him repatriation to Sydney; Howe was captured but Sorell broke his promise. Musquito bided his time. When it became obvious that a takeover of the whole of the island was being planned by the English authorities, Musquito joined the Laremairemener people of Oyster Bay. He quickly welded them into a fighting force and began a guerrilla war such as he had pursued with considerable success in his native land (Grassby and Hill, 1988, p.54).

Musquito's career was to end in betrayal, and capture and eventual hanging on 24th February, 1825. A serious problem with the Grassby and Hill portrayal of Musquito in Tasmania is that, as Parry (2003) points out it does not fit the fact that Musquito was only involved in Tasmanian violence for seven months. However Musquito was not the mere bandit that Windschuttle seeks to construct. Parry (2003) also claims that the emphasis on Musquito's role serves to downplay the agency of the native Tasmanians.

Yet as Parry (2003; 2007) shows Musquito was a considerable thorn in the flesh of the colonial administrators in his native Hawkesbury and the Grassby Hill thesis fits that period of Musquito's life better than his time in Tasmania. Windschuttle, (2002) though makes no reference to this aspect of Musquito's life and contents himself with caricaturing Musquito as a criminal. Thus we are given the scandalous allegation that Musquito was motivated to join the Tasmanian First Australians because of the female companionship they provided. He is also anxious to tell us of Musquito's 'three black mistresses' (Windschuttle, 2002, p.67).

Windschuttle's Methodology

Windschuttle's approach to history writing began in 1996 with his attack on the postmodernist historians. Central here was his defence of the correspondence model of the truth and British analytical philosophy. He also explicitly singled out for praise the work of the historian Henry Reynolds. Windschuttle wrote:

It was not until the early 1980s, especially with Henry Reynolds's breakthrough in discovering and deploying previously untouched evidence that historians found it was possible to use Aboriginal voices to tell the story (Windschuttle, quoted in Beams, 2003, Part 3).

However within four years Windschuttle had moved to the right and out of Marxism. In the course of doing so he turned on those historians and former comrades whose opinions he had previously endorsed (Gould, 2000).

Windschuttle in keeping with his attacks on postmodernism placed great store on finding and sifting through the facts. Quiggin (2003) has characterised the major features of Windschuttle's methodology as follows:

Windschuttle's basic method is a painstaking search for erroneous footnotes, bogus quotes and so on. Although this 'battle of the footnotes' is still being fought out, it may be worth summarising the current state of play before moving on to more serious issues. In the case of Henry Reynolds, a detailed and openly hostile examination produced a single misinterpreted quote, which Reynolds promptly acknowledged. Against this, Windschuttle himself has been nailed for his baseless claim that Reynolds had reversed himself on the applicability of the term 'genocide' to Tasmanian Aborigines, a far more serious error (Quiggin, 2003).

Boa (2010, p.100) has described Windschuttle's methodology as not in step with the normal practice of historians and being politically motivated. It was through Windschuttle's forensic

approach that he was able to score heavily against the historian Lyndall Ryan's use of some of her sources. Ryan (2003) herself and Macintyre (2003) as well admit the accuracy of at least some of Windschuttle's charges here.

There has been a great deal of criticism of Windschuttle's own use of sources. Thus Parry (2003) points out that in his account of the Risdon Cove Massacre, Windschuttle dismisses a witness who says a massacre took place. However, Windschuttle is confused over where the massacre took place. Similarly Manne (2006) shows that in his dismissal of the Cape Grim Massacre, Windschuttle neglects a vital source, Rosalie Hare's diary, which says:

We have to lament that our own countrymen, consider the massacre of people an honour. While we remained at Circular Head there were several accounts of considerable numbers of natives having been shot... The master of the Company's Cutter, Fanny, assisted by four shepherds and his crew, surprised a party and killed 12 (quoted in Manne, 2006).

Equally telling is Manne's criticism of Windschuttle's claim that the First Australian people of Tasmania had no attachment to their land, because they did not have a word for it (Windschuttle, 2002, p.110). Manne (2006) points out that the word used was 'country' and there are many entries under this term in the surviving word lists. It is true that the Tasmanians (and the mainland First Australian people) did not have a relationship to the land that was mediated through the market. It would equally be true to say that such a concept of land is all that Windschuttle is capable of understanding.

It might be helpful here to turn to the work of Latin American theorists on the 'Indian question'. Luis Vitale (1997), in his sympathetic critique of the ideas of the Peruvian philosopher and activist, José Carlos Mariátegui (1894–1930), argued that Mariátegui's weakness on the Indian problem could be understood in a failure to make the distinction between 'land' and 'territory'. Vitale argued that:

For the original peoples, territory is an essential category, and it means much more than the demand for land. In today's terms, territory is the environment, that is, the intimate relationship between human and natural global society. Territory is the habitat of the original people-nation who continues to fight for its reconquest. It is the area in which daily life and communication in a common language are carried on. It is where we work and produce collectively, harmoniously integrating ourselves with nature without damaging it irreversibly (Vitale, 1997).

In a similar vein, Woolford (2009) writing about the fate of the Tsawwasen people of Canada argues that Westphalian notions of bounded territory did not apply to their way of thinking about their sociocultural environment. As a consequence these notions 'placed severe restrictions on how they [the Tsawwasen] could imagine themselves as a people in relation to, and as part of, their physical surroundings' (Woolford, 2009, p.89).

Windschuttle does not only suffer from a dearth of imaginative sympathy when writing about Tasmanians, he also becomes simply racist. Windshuttle (2002) is determined to construct them as an inferior and primitive species. This is especially apparent in his denial that the Tasmanians had discovered fire (Windschuttle, 2002, p.377). However as Breen (2003) shows the evidence is that the Tasmanians used the percussion method of lighting fires.

By way of contrast with how he views the Tasmanians, in his analysis of the actions of the settlers in Tasmania, Windschuttle lays great emphasis on the fact that within the colonial metropolis Evangelical and Enlightenment views predominated. These constituted a 'warm, practical, humanitarian movement' (Piggin, quoted in Windschuttle, 2002, pp.297-298). The dominant view was mankind was one and that everyone had a common ancestor (Windschuttle, 2002, p.298). Moreover it formed, according to Windschuttle (2002, p.301), the 'ascendant spirit of the age'. So, Windschuttle argues, the settlers could not have been the exterminators portrayed by what he terms the 'orthodox school' of historians, because the settlers would have been reluctant to reject the 'dominant assumptions of their political and religious authorities' (Windshuttle, 2002, p.301).

The argument here is extremely disingenuous. Let us try to unpack it in some detail. To begin with it presupposes a one to one relationship between what people say and what people do. Stearns, (2003) gives as a counter example the instance of one of the great figures of the Enlightenment, Thomas Jefferson, the author of the Declaration of Independence and the third President of the USA. Jefferson penned the immortal words:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness (quoted in Stearns 2003, p.496),

Jefferson was at the same time the owner of slaves and as Stearns shows he was thoroughly racist in his attitude towards the 'inferior races', among whom he included the Irish, Indians and 'negroes' (Stearns, 2003, p.496). Moreover if we look at the difference between what he wrote about freedom and what he did then the true naivety of the view that Windschuttle is trying to peddle is exposed thoroughly. Jefferson wrote:

This ball of liberty, I believe most piously, is now so well in motion that it will roll round the globe, at least the enlightened part of it, for light & liberty go together. It is our glory that we first put it into motion and our happiness that foremost we had no bad examples to follow (quoted in Rebok, 2009, p.79).

However, when he was President his actions towards the revolution in Haiti were remarkably different. He initially supported the revolt to limit French influence in the region, but afterwards he acted against the new Republic of Haiti because he feared the impact of the Haitian revolution on American slaves (Rebok, 2009, p.85).

A major difficulty with Windschuttle's argument is that he assumes a one to one relationship between rhetoric and action. Crucially as Elbourne (2003) points out he simplifies and exaggerates the influence of Evangelical Christian thought on what the settlers did. In her analysis of the 1835-6 Select Committee on First Australians, Elbourne shows Windschuttle is wrong in his argument that humanism was a long term characteristic of British colonialism. Moreover she describes his denials of frontier violence as 'surely untenable'. The Committee, Elbourne (2003) argues was more interested in 'sin and salvation than issues of earthly freedom'.

In a similar vein in a telling critique of the narrow range of Windschuttle's sources Boyce (2003) concludes:

Only someone who had read almost no personal reflections and testimonies could imagine that the evangelical revival had a significant restraining impact on frontier behaviour (Boyce, 2003, p.10).

Windschuttle's 'argument' that the colonists were Christians and therefore could not have practised 'extirpation' is of course nonsense. The Christian interest in 'sin and salvation' could take many forms as Ward Churchill (2004, pp.60-67) shows in the context of the experience of Aboriginal Americans in Residential schools. Harold McIntee, Glen Doughty, Hubert O'Connor, and Jerzy Macynski were all followers of the gentle prophet from Nazareth, but that did not preclude them from sexually abusing the Indigenous Children in their Charge (Churchill, 2004, p.64). Closer to home, Fr. Stanaway as chaplain of St. Vincent's Orphanage, Nudgee, sexually abused the children in his care (Forde, 1999, pp.87-88). Likewise, Edwin Smith of the Open Brethren abused children at the Silky Oaks Haven for Children (Forde, 1999, pp.88-89). I could go on, but enough perhaps has been said that one cannot argue from official adherence to Enlightenment or religious values to enlightened or religious behaviour.

In addition there was a paradox at the heart of the whole colonial endeavour which Windschuttle ignores. This for Elbourne (2003) was the:

paradox of a British liberalising state, many of whose members used the language of liberalism to justify their possession of territory around the world and pointed to the abolition of slavery as a marker of British commitment to freedom [but] was in fact dependent on violence, coercion and property theft to extend its control over ever-increasing tracts of land (Elbourne, 2003).

It is ironic that Windschuttle (2002, pp.122-130) who caricatures the Tasmanians as thieves motivated by a taste for luxury goods, is blind to who the real thieves were.

Also under attack has been Windschuttle's criterion for approving of his sources. Gould (2000) was the first to point out that Windschuttle's criterion was excessively legalistic. Ashenden (2010) echoes this criticism. Windschuttle will not accept as true anything that would not lead to a conviction in court. Thus in every account of the killing of Tasmanian Aborigines, Windschuttle either denies it took place as in the case of the Risdon Cove massacre of May 1804, or gives the lowest available figure for the number killed (Parry, 2003; Manne, 2006). Reading though his book however one sees not simply that Windschuttle's approach is forensic but that he is an attorney defending the colonialists. Thus faced with the fact that the colonial press did call on more than one occasion for the extermination of the Tasmanian Aborigines, Windschuttle, blithely reduces these calls to the singular. He also employs the metaphor 'heat of the moment' to suggest somehow that the murderous rage of the colonists was of a similar time scale as a passing tizzy. Thus he confidently informs us:

But the *demand* was made in the *heat of the moment* and was out of character with the colonial press's longer-term approach to the subject (Windschuttle, 2002, p.322; my emphasis).

Whether it was out of character or not there is the awkward fact that Tasmanian Aborigines had been between 2000 - 8,000 people in 1803. When Robinson rounded up the survivors in 1833, there were just 250 'full bloods' left and the last of these Trugennanner was to die in 1876. Ryan (2010, p.40) is correct to insist that this 'grim statistic' is what calls for an explanation. So, how to explain it? The 'G' [enocide] word dare not say its name and so Windschuttle resorts to the usual suspects – social biology, as in the Tasmanians, were an inferior species/ disease, in that they had no immunity and social practices, as well as trading their wives away.

Of these factors it is disease that Windschuttle (2002, pp.372-5) lays most stress upon. His evidence here appears quite thin. Certainly Tatz (1999) disputes the claim that disease was a

major factor in the decline of the First Australian population. Boyce (2003, pp.1-5) too questions whether disease could have had the impact that Windschuttle claims. In the case of Queensland for instance, Windschuttle accepts the view that blame should be placed on 'the savagery of the settlers and their calculated slaughter of the First Australian population' (Boyce 2003, p.13) and 'the genocidal impulses and actions of the settlers' (Boyce, 2003, p.14). Moreover Windschuttle's methodology of generalising from what happened to the 123 Aboriginal people (Tatz, 1999, p.15) that Robinson interned on Flinders Island seems suspect. In addition, his tendency to believe all reports of epidemics while discounting all reports of massacres is worth noting. A different standard of evidence seems to be applied. Thus Windschuttle quotes Robinson with approval when he is discussing the impact of disease on the Tasmanians (Windschuttle, 2002, p.373), but is sceptical about Robinson's calculations when he is talking about the number of Tasmanians killed by white settlers and in fact accuses Robinson of 'deception' (Windschuttle, 2002, pp.284-7).

Ryan (2010) has done us all a service by contextualising Windschuttle's polemic on Tasmania. She shows that historians have moved from first admitting that Tasmanians were massacred and then denying the massacres, to now where there is a fierce debate over the sources (Ryan, 2010, p.39). She is also correct when she states that by their very nature, massacres tend to be secret affairs where the hard evidence is removed and where the participants have a vested interest in denying their role (Ryan, 2010, p.47). She is also correct when she says that those who deny the massacres are manifesting a 'reluctance... to come to terms with incontrovertible evidence about our violent past and to seek reconciliation with Aboriginal survivors' (Ryan, 2010, p.48).

In a comparable manner Windschuttle in his polemic against the Stolen Generations repeats the habit of stressing those features of the evidence that suit his case and attempting to whisk out a view that does not exist. Thus in his discussion of the Stolen Generations he approaches the views of Dr Cecil Cook, the Chief 'protector' of Aborigines in the Northern Territory (1927-39) by first admitting that Cook had a policy of attempting to encourage through marriage the evolution of the 'half-caste Aborigine into a white man' (Windschuttle, 2009, p.381). However Windschuttle's tactics here are to stress that the policy was a failure and that many disagreed with Cook. That one of those who disagreed was the infamous racist and segregationist, J. W. Bleakley, does not matter to Windschuttle.

Among other things Bleakley is notorious for successfully attempting to deprive 'half-caste' Aboriginal people of the vote (Kidd, 2006, p.138; Reid, 2004). Windschuttle makes no mention of this. He does however quote twice Bleakley's remark that the First Australian people must be 'allowed to retain their racial entity and racial pride' (Windschuttle, 2009, p.375; p.400) to show that there was no genocide.

However I have already quoted Bleakley in Chapter Three to show that he was motivated by a desire to 'safeguard the purity of our [white Australian's] own blood' (quoted in www.HumanRights.gov.au, 2007). He remained fully convinced that First Australians were 'a degraded race living in loose conditions at its [the white race's] back door' (Bleakley, quoted in Kidd, 2000, p.70). Joanne Watson also documents his attempts to control 'breeding' to prevent the development of the 'half-caste evil' (Bleakley quoted in Watson, 2000, p.48).

Moreover, rather than being the intellectual giant that Windschuttle (2009, pp.372-3) portrays Bleakley as being, Kidd shows that he was eventually forced to resign because of his administrative inefficiency and irregularities (Kidd, 2006, p.148). Kidd (2006, p.71) also points out that Bleakley was unscrupulous in raiding Aborigines' trust funds to make up for inadequate state funding.

Nevertheless Windschuttle's case against the genocide charge depends heavily on the existence of policy makers like Bleakley. In so doing he seeks to minimise the role of those in public office whose views were openly and proudly genocidal. Thus he makes no mention of the Undersecretary William Gall. The latter's approach to the 'half-caste problem' was to advocate sterilisation because as he wrote to the Queensland governor in 1934 'Inferior races will have to go' (Gall quoted in Kidd, 2006, p.137).

Windschuttle's questionable approach to evidence can be seen also in his use of Jack Galloway's speech in the House of Representatives. He quotes Galloway as saying of Cook:

They assured me that socially and as a private citizen, Dr Cook was an estimable gentleman, but that, officially, he was an absolute crank, his pet scheme being to breed all the half-castes in the territory back to white people. They assured me that so determined was he to give effect to his theory that he was giving preferences in employment to those whites who promised to marry half-caste women (Galloway quoted in Windschuttle, 2009, p.394).

Windschuttle's here is to use approvingly Galloway's testimony that Cook was a crank, but to say that Galloway 'probably overstated his accusation about preferential employment (to those whites who promised to marry half-caste women) (Windschuttle, 2009, p.398). He gives no evidence to support his claim that Galloway probably overstated the case, because Galloway's speech here does not support Windschuttle's case that Cook was an isolated ineffectual crank.

Similarly Windschuttle's attachment to a forensic standard of evidence which he applied to Tasmanian casualties wavers over the impact of disease and suddenly we get the use of hearsay. Thus he writes:

James Bonwick recorded: Mr Cathechist Clark was informed by the Natives, when at Flinders Island, that, before the English ships arrived in Sullivan's cove, a sudden and fearful mortality took place among the tribes. It was viewed as a premonition of a dreadful calamity affecting the race (Windschuttle, 2002, p.375).

A dreadful calamity did befall the Tasmanians and it came directly from the rapacity of the settlers. Here in full is Windschuttle's shameful analysis on one of the greatest tragedies in our collective history as a nation:

In *Fate of a Free People* Henry Reynolds urges us not to underestimate the ability of the Aborigines. They did not lack control over their own fate, he argues and we should not see them as helpless victims of the invaders. This is a valid point... But it also means we should see them as active agents in their own demise because their men hired out and sold off their women without seriously contemplating the results. In doing so they dramatically reduced the ability of their own community to reproduce itself. Only men who held their women so cheaply would allow such a thing to happen. The real tragedy of the Aborigines was not British colonisation *per se* but that their society was, on the one hand, so internally dysfunctional' and, on the other hand, so incompatible with the looming presence of the rest of the world. Until the nineteenth century, their isolation had left them without comparisons with the other cultures that might have helped them reform their ways. But nor did they produce any wise men of their own who might have foreseen the long-term consequences of their own behaviour and devised ways to curb it. They had survived for millennia, it is true, but it seems clear that this owed more to good fortune than good management. The 'slow strangulation of the mind' was true not only of their technical abilities but also of their social relationships. Hence it was not surprising that when the British arrived, this small, precarious society quickly collapsed under the dual weight of the susceptibility of its members to disease and the abuse and neglect of its women' (Windschuttle, 2002, p.386, quoted in Beams, 2003, Part 3).

Commenting on the above, Beams (2003) says that it is unlikely if ever, a comment on the outcome of the encounter between expanding capitalist society has ever been expressed in 'quite such a cold blooded manner'. Here Brantlinger (2004) quotes Adorno's:

In this forgetting of what is scarcely past... one senses the fury of the one who has to talk himself out of what everyone else knows, before he can talk them out of it (quoted in Brantlinger, 2004, p.669).

This fury may have made Windschuttle a 'hero' to the late Frank Devine (2006). But it has been deplored even by right wing commentators such as Gerard Henderson. For the latter it is Windschuttle's abandonment of his former Marxist principles that has turned him into a 'mirror-image' of the 'ideology based history he is confronting. The result is a lack of 'empathy' (Henderson, 2004). However for me Windschuttle's problem is not a lack of empathy or compassion, true though these charges would appear to be on even the most casual reading of his histories. It is nonsense to expect these qualities from anyone engaged in the kind of project that Windschuttle has undertaken. Lyndall Ryan comes closest to recognising Windschuttle for what he is when she compares him to the Holocaust denier David Irving (2003, p.204).

We turn now from the denial of the Tasmanian Holocaust to Windschuttle's work on the Stolen Generations.

Rabbit-Proof Fence and the 'G -word'

It is impossible to discuss Windschuttle's work on First Australian History without going further into the question of genocide – the 'G- word' as Ward Churchill (2004) terms it. Not least because it is the denial of genocide that forms the hard core of Windschuttle's project as we saw in his work on Tasmania. Moreover his denial of genocide is also the reason why his work is fêted on the Right and in the pages of *The Australian*. I will return to the charge of genocide, but for the present I will confine my remarks to the relationship between Windschuttle's polemic on the Stolen Generations and his denial of the charge of genocide and a number of his key supporters in what I term the *Quadrant* camp.

One of Windschuttle's leading supporters, Andrew Bolt (2010) has argued repeatedly that the Stolen Generations is a 'much bigger lie' [than the 'alleged massacres in Tasmania']. As with the 'holocaust' in Tasmania, what Windschuttle is targeting is the consensus on the Left. What he and his supporters above all wish to put an end to, is the attempts in Australian schools to tackle racist attitudes towards First Australians. Here information about the Stolen Generations has a crucial role to play (Kennedy, 2004) and that is the *raison d'être* for Windschuttle's attack.

Bolt (2010) has even commented that the 'maddest thing was that the monstrous theft of children allegedly took place without anyone noticing'. Of course Bolt means 'any white person noticing'. My people had long noticed and that is why they adapted the practice of rubbing dirt and soot on the skin of the fair skinned children when the police were around, something I mentioned previously in Chapter Three. Bolt and Windschuttle would not know about that practice or read about it and so it does not exist.

Another supporter of Windschuttle, Merv Bendle (2010) in his review of Windschuttle (2009) objects to the charge of genocide on what would appear to be pragmatic, i.e. opportunistic grounds. Thus he compares the impact of the US House Committee on the Armenian genocide with the charge that genocide has been practised against the First Australians. Bendle opposes the Armenian vote not on the grounds of truth but that the vote would likely turn Turkey away from the West and towards Islamic extremism. Similarly to accept the thesis that genocide was practised here in Australia would have a very negative effect, he argues, on our national morale. It is in this spirit that he welcomes Windschuttle's book. It apparently absolves all White Australians from 'original sin'. Seemingly now according to Bendle (2010) we can now get back to building Australia 'into a great inclusive and integrated society within which scores of different ethnicities, nationalities, and cultures can participate'. What a relief!

Something of the same sense of respite from the burden of guilt comes across in John Izzard's (2010) review of Windschuttle (2009). In his case Windschuttle's work is a case of 'mission accomplished'. For Izzard (2010) tells us 'in the late seventies and early eighties of the last century, Australians awoke to find out their country was pronounced racist and genocidal'. In a like fashion Roger Sandal (2010) talks of how 'One fine morning Australians work up to find the credit rating of their country – the moral credit rating, that is- plummeting out of control. A damaging tale about 'stolen generations' had been invented'. But all this, thanks to Windschuttle, has now proved a nightmare that has passed. There was no wiping out of the Tasmanian First Australian people. Nor were there massacres on the mainland or Stolen Generations. Again, what a relief!

Martyr (2010) is likewise grateful for Windschuttle's 'courage and honesty'. Equally McCauley (2010) has fallen in love with the 'beautiful rhythm' of Windschuttle's writing and his 'steady rhythm of facts and figures'. Unfortunately this praise for Windschuttle's honesty is not balanced by any account of where he displays a lack of it. Nor is McCauley seemingly conscious of when the rhythm of 'facts and figures' is broken (Ashenden, 2010; Raynes, 2010). Moreover my experience of being an activist in this country compels and entitles me to ask, 'When has it ever taken courage to be a conservative in Australia?'

I have dealt at some length with the *Quadrant* camp because they are extremely powerful given the balance of power in today's Australia, especially as it is reflected in a largely monopolized media. So great is the power of the Right, that there has been little attention given to Cameron Raynes' (2010) dismantling of Windschuttle's case that Aboriginal children were not stolen nor was there any genocidal intent. Raynes' work shows that *contra* Windschuttle, in South Australia, Aboriginal parents who had their children taken and institutionalised against their wishes were barred from seeing them. The South Australian legislation did not allow the

removal of the children so the State Department resorted to a covert operation (Raynes, 2010). This lasted until around 1949 and the Bruce Trevorrow Case, which is discussed in Chapter Eight, was according to Raynes the last gasp of a secret policy. This answer's Windschuttle's objection, that Bruce could not have been one of the Stolen Generations, as his siblings were not affected.

With regard to Windschuttle's denial of genocide, Raynes (2010) quotes the State's Children Council of 1911:

The Council is fully persuaded of the importance of prompt action *in order to prevent the growth of a race* that would rapidly increase in numbers, attain a maturity without education or religion, and become a menace to the morals and health of the community (Raynes, 2010, his emphasis).

This is surely evidence of intent and one can understand Raynes' challenging Windschuttle to answer. But one can equally understand why there has been no reply.

Before undertaking an attempt to show that the charge of genocide is an appropriate one in the context of the Stolen Generations I will deal briefly with Windschuttle's response to the film *The Rabbit Proof Fence* (2002).

Windschuttle's principal tactic here, as always, is to find a point of disagreement or a fact that has been changed or asserted wrongly. It does not matter whether this alters the overall argument or not. The point is to discredit the film. Here is part of what he says:

... the main reason for the removal of at least the two older girls, was a letter written to Neville in December 1930 by Mrs Chellow from Murra Munda Station near Jigalong. Pilkington found it in the Perth archives of the Department of Native Affairs. Mrs Chellow was concerned about the girls' sexual behaviour. (Windschuttle, 2010, n.p.)

Murra Munda
9th December 1930
Mr Neville
Chief Protector of Aborigines
Perth
... There are two half-caste girls at Jigalong – Molly 15 years, Crissy [Gracie] 11 years; in my opinion I think you should see about them as they are running wild with the whites.
(Sgd.) Mrs Chellow

At the time, ladies like Mrs Chellow could not frankly discuss sexual matters in an official letter, but there is no doubting the message she wanted to convey. 'Running wild', when

applied to girls, was a contemporary euphemism for promiscuity; 'running wild with the whites' meant Molly and Gracie were having sex with the whites. The white men Mrs Chellow most likely meant were the maintenance workers on the rabbit-proof fence who, like the Englishman who had sex with Molly's mother fifteen years earlier, periodically stopped overnight at Jigalong on their long north-south tours of inspection. It was the information in this letter that finally led Neville to order the girls' removal. So, rather than being sent to the Moore River Settlement in order to be mated with white men, Mollie and Gracie were removed from Jigalong in order to be *protected* from white men (Windschuttle, 2008).

So in Windschuttle's world, Neville is the hero who is gallantly trying to save the Aboriginal girls from a life of promiscuity and not trying to breed out the colour. As Smithers has pointed out, the imagination of the colonists did run obsessively on sexual matters, and the quotation from Windschuttle and the way in which he obviously believes that this 'evidence' clinches the argument, shows that the tradition of seeing Aboriginal women as the exotic / erotic Other is still alive and well.

The evidence in this case is decidedly not in favour of Windschuttle. To begin with Neville was on record as advocating breeding out the colour. He said:

The blacks will have to go white. It is exemplified [by] quarter – castes and by the gradual absorption of the native Australian black race by the white (Neville, quoted in Rundle, 2009).

Windschuttle concedes that Neville advocated breeding out the colour but argues this was never government policy (cited in Owens, 2009). However, he neglects to mention that one of the reasons it was not government policy is as we have seen above with the Moseley Report (1935), that sections of the Governmental apparatus could not bring themselves to contemplate, never mind advocate 'miscegenation'. Also missing from the quotation from Windschuttle above is any acknowledgment of the existence of another letter about Molly and Gracie that gives a very different picture from the one suggested by Windschuttle. The letter is from a policeman and it says:

They live with their mothers in the black fellows' camp and therefore have not been in touch with the white people much. They lean very much towards the black and on second thought I don't suppose there would be much gained in removing them (quoted in Owens, 2009).

There is also a letter from Neville which shows that he was worried by one of the girls marrying a full blood First Aboriginal man (Owens, 2009).

The Cubilo Case

Central to the Windschuttle case against the Stolen Generations, as Ashenden (2010) points out, is the reading he offers of the Cubilo Court Case in 2000. There the argument put to the judge was that the removal of the child had been based on race rather than on welfare and that it had been pursued 'without regard for the welfare of individual children or their individual circumstances' (Windschuttle, 2009, p.23). Windschuttle quotes the Judge Justice O' Loughlin's reply as follows:

I cannot accept that submission; it failed to recognise those decisions of the High Court to which reference has already been made that classified the legislation as beneficial and protectionist; it failed to recognise that there was then, as there is now, an acceptance of the need for special legislation and special consideration of Aboriginal people. Finally, there was absolutely no causative link connecting 'race' to a failure to have regards for the welfare of children. The existence of one does not preclude the existence of the other (Quoted in Windschuttle, 2009, p.23.).

The High Court decisions referred to were the 1997 decisions rejecting a claim that removals had been based on race and intended to commit genocide. The judges emphasised that there was no such intent to destroy in whole or in part the Aboriginal people. Windschuttle (2009, p.24) concludes triumphantly 'As far as Australia's highest courts are concerned, the central hypothesis of the Stolen Generations is legally extinct'

In spite of this claim, as Dean Ashenden points out Windschuttle is guilty here of over simplification of Justice O'Loughlin's actions and what he had to say. Thus Ashenden emphasises that the judge was at pains to affirm that the case was only about two people, and only about the Northern Territory and what happened there. He also spoke of the lack of evidence, much of which had disappeared while many of the potential witnesses were dead. He refused as well to accept the truthfulness of one of the witnesses. In addition he indicated there was *prima facie* evidence against two former officers and the Aborigines Inland Mission. More importantly the Judge said:

Neither the evidence in this trial, nor the reasons for judgement... deny the existence of 'the Stolen Generation'. Numerous writings tell tragically of a distressing past'. (Judge O'Loughlin quoted in Ashenden, 2010a).

Ashenden notes here that all these details with the exception of the comment about the lack of evidence are not mentioned in Windschuttle's account.

Genocide by Any Other Name

No one in his right senses believes that the Commonwealth of Australia will be called before the bar of public opinion, if there is such a thing, and asked to answer for any of the things which are enumerated in this convention. - Archie Cameron, Liberal Member for Barker, in the parliamentary debate on Australia's ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, June 1949. ... The horrible crime of genocide is unthinkable in Australia ... That we detest all forms of genocide ... arises from the fact that we are a moral people. - Leslie Haylen, Labor Member for Parkes, in the same parliamentary session (quoted in Tatz, 1999, p.1)

I believe that it is important to understand that any discussion of the concept of genocide must be contextualised, i.e. one must take account of its contemporary usage. Here it is useful to note that in his account of Herman and Peterson's (2010) book on the politics of genocide Rick Rozoff quotes the authors' claim:

During the past several decades, the word 'genocide' has increased in frequency of use and recklessness of application, so much so that the crime of the twentieth century for which the word was originally coined often appears debased. Unchanged, however, is the huge political bias in its usage.... (Herman and Peterson quoted in Rozoff, 2010).

Herman and Peterson's central and meticulously documented thesis is that the charge of genocide has been politicised by successive American Governments. It is in effect something that the political opponents of America practise. By way of contrast the actions of America's allies are 'benign' and the people they kill are 'unworthy'. I detect something of this approach in Windschuttle's work on the killing fields of Tasmania.

The result is as Herman and Peterson claim an unfortunate debasing not only of a word but also of a politics which should flow purely from humanitarian concerns for all humanity. Nevertheless I will continue to use the word 'genocide' not least because people like Windschuttle are so anxious to stop its deployment, but also because in the Australian context its usage speaks truth to power.

How much this is so can be seen in Ashenden's (2010a) review of Windschuttle's book on the Stolen Generations. Ashenden (2010a) characterises the charge of genocide as 'the most difficult and dangerous question of them all'. For many Australians the very idea that genocide had been practised against my people is unthinkable. Here Neil Levi (2007) has pointed to the tactic adapted by leading right wing commentators. They deny the charge of genocide by

referring to the Holocaust. Thus Christopher Pearson argued ‘no sensible comparison between post-contact Australian history and Hitler’s slaughter of 6 million Jews, whose sufferings it demeans for the sake of a rhetorical flourish’ (quoted in Levi, 2007, p.136). Similarly Ackerman wrote ‘no valid comparison can be drawn between Nazi Germany and Australia (quoted in Levi, 2007, p.136).

I will return to Ashenden’s interpretation of the genocide question but let us begin with the definition of genocide, first formulated by Raphael Lemkin in 1944.

His work was to take the shape of the following definition supplied by United Nations in 1948, and ratified by Australia in 1949.

[G]enocide means any of the following acts committed with intent to destroy, in whole or in part, a 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 measure intended to prevent births with the group; [and] (e) forcibly transferring children of the group to another group (cited in Brantlinger, 2004, p.657).

Reading the above definition can anyone seriously maintain that genocide was not practiced against my people? Well the answer is ‘yes’ based on the evidence of the work of Windschuttle and his supporters. However Colin Tatz claims that First Australians suffered from all of the acts that define genocide (Tatz, quoted in Brantlinger, 2004, p.657). Tatz (1999) in his summary of what happened in Tasmania emphasises that the Aboriginal people were ‘killed, with intent, not solely because of their spearing of cattle or their ‘nuisance’ value, but rather *because they were Aborigines* (p.15; original emphasis). That is of course as Tatz (1999, p.15) points out a violation explicitly nominated by the 1949 Genocide Convention.

It is when he comes to the history of Queensland that Tatz (1999) is at his most trenchant. Thus he claims that white settlers killed some 10, 000 blacks in Queensland (Tatz, 1999, p.15). By Evans’ (2010) accounting this is a woefully inadequate number. Evans reaches the figure of 24,000 by estimating the number of patrols and encounters with Aboriginal people on these patrols and giving an approximate figure of two Aboriginal people killed per dispersal (Evans, 2010, pp.29-31).

He also quotes from a private letter by the British High Commissioner, Arthur Hamilton Gordon to Prime Minister Gladstone:

The habit of regarding the natives as vermin, to be cleared off the face of the earth, has given the average Queenslander a tone of brutality and cruelty in dealing with 'blacks' which it is very difficult to anyone who does not know it, as I do, to realise. I have heard men of culture and refinement, of the greatest humanity and kindness to their fellow whites, and who when you meet them here at home you would pronounce to be incapable of such deeds, talk, not only of the wholesale butchery (for the iniquity of that may sometimes be disguised from themselves) but of the individual murder of natives, exactly as they would talk of a day's sport, or having to kill some troublesome animal (quoted in Tatz, 1999, p.15).

The above quote is yet more evidence that the settlers regarded my people as the feared / Despised 'Other' or *Untermenschen*. It is also evidence of a genocidal impulse which cannot be negated by appeals to the presumed dominance of the values of the Enlightenment or Evangelical Christianity. Gordon is quite clear here; even the most 'civilised' of the settlers was capable of participating in genocidal brutality.

Ashenden's reading of Windschuttle's work would appear to be structured around a particular binary model of Australian history. The first division is that of the Frontier and then we get the post-Frontier period.

The question of how one divides up the history on First Australians and non-Indigenous contact is a controversial one. Boa (2010) points out that there are several divisions. In his account of New South Wales he mentions the period of 'Voluntary Assimilation' from 1883 to 1909, 'Dispersion' from 1909 to 1939, and 'Assimilation' from 1940 to 1969. Boa also cites Heather Goodall's segmentation of 'extermination', 'protection' and 'assimilation' (Boa, 2010, p.102).

No dates are given by Ashenden for his particular binary division of Frontier and Post Frontier, though Rowse's (2003) suggestion of the 'long nineteenth century (1788-1928)', i.e. from the First Fleet to the Coniston Massacre, would surely serve for a periodisation of the Frontier Period. This is described by Ashenden as a 'wrecking-ball'. His attitude towards the post-Frontier period is more ambivalent.

It is because he makes this distinction between Frontier and post-Frontier that Ashenden is able to agree with Windschuttle that:

those involved in child removal and care were often, but not always driven strongly, but not exclusively by ideals drawn from post-Reformation Christianity and Enlightenment humanism (Ashenden, 2010a).

For Ashenden by contrast with the bumbling but well meaning care officers, 'the wants and desires of the Frontier were: for land and water; for cheap labour; for sex; and, often enough, for blood' (Ashenden, 2010a). What is more he claims that if there were genocide then the guilty party was not church and government 'but the entire historical process and the social order that enacted it (Windschuttle, 2010a).

We have come here to the ambivalence that lies at the heart of many of even the most well-meaning of white historians and commentators. As Rowse (2003, p.254) points out each one of them is a 'beneficiary of dispossession'. This makes, in the likes of Ashenden and Rowse, for a guilty conscience and a wish that things had not been quite so brutal. It also still leads at times to the romanticisation of some of the figures of the Frontier.

This certainly is one reading of Ashenden's (2010b) beautifully written but strange piece on the Odd Couple - the autodidact Francis J. Gillen and the anthropologist W. Baldwin Spencer. Ashenden (2010b), so taken is he by the 'romance in the air' between Gillen and Spencer that he became quite kind to them. He writes:

There are few villains and fewer heroes in the story of black and white in Australia. Spencer and Gillen were, like many others, neither, and both. If their conscience was never victorious, nor was it ever entirely vanquished (Ashenden, 2010b).

As a First Australian scholar, health worker, educationalist and activist I cannot accept the moral ambiguity here. Australian history is full of white villains. I also know of many black heroes whose day to day life consists of the fighting for justice and the rights of my people.

Moreover Tatz (2009) is less enamoured than is Ashenden of the work of the Anthropologist Baldwin Spencer. He writes of the 'scientific' curiosity, good intentions but also disdain for First Australian society (quoted in Tatz, 2009). He describes how Spencer's views, channelled by the anthropologist A. P. Elkin, dominated thought at Sydney University. He also quotes Spencer thus:

The Aboriginal is, indeed, a very curious mixture; mentally, about the level of a child who has little control over his feelings, and is liable to give way to violent fits of temper, during which he may very likely behave with great cruelty. He has no sense of responsibility and, except in rare cases, no initiative (quoted in Tatz, 2009).

It is quotations like that lead me to question Ashenden's binary classification of Frontier and Post-Frontier. From a First Australian perspective our historical experience of colonialism represents more of a racially based continuity than a rupture. It is true that massacres no longer

occur, but deaths in custody continue as we will see in Chapter Nine when we come to discuss the Lex Wotton and Lyji Vaggs' cases. I will return to this point, but at this juncture I wish to emphasise that I am very much in sympathy with Deirdre Tedmanson's (2008) argument that:

...Australia's violent colonial past is part of and integral to its colonial present...
[and] that a legacy of colonial practice at the material and discursive level, a relationship between past and present, is lived and played out within the socio-political, governance, organisational and judicial spaces pertaining to Indigenous Australians (Tedmanson, 2008, p.143).

How else can one explain the necessity to find Sergeant Hurley innocent of the murder of Mulruinji?

Windschuttle's promised volume on the Frontier has not yet emerged. So it is difficult to see how he will be able to refute the recent work of historians such as Jonathan Richards (2008). Writing on the role of the notorious Native Police Richards' painstaking research has revealed them to be a force that 'operated as part of a widespread campaign of frontier violence in colonial Australia in general, and in Queensland in particular (Richards, 2008, p.4).

None of this racially motivated violence that was and is so essential to colonialism, is however a problem for Keith Windschuttle. He simply redescribes the genocidal dispossession as acts of Christian charity and enlightened humanism. However, the charge of genocide is not so easily dismissed and we will continue our discussion.

Following the urging of the historian Anne Curthoys to adapt a transnational approach, Catherine Ellinghaus (2009) gives us an interesting comparison of the fate of First Australians and Indigenous Americans. I support the notion of making comparisons across nations as can be seen from some of the quotations I have prefaced my chapters with. Moreover in Chapter Six I will have occasion to deal in some depth with the experience of Native Americans in the Indian schools. Ward Churchill (2004) and Andrew Woolford (2009) show in truly horrifying detail that the Indian boarding school system in the United States and in Canada was genocidal in its impact.

Ellinghaus (2009, p.62) argues persuasively that the policy of the biological absorption of the Indigenous populations of America and Australia permeated the assimilationist policies of both countries. She identifies and discusses three main mechanisms. The first of these is rape (Ellinghaus, pp.66-68). The rape of Indigenous women went largely unreported and rarely punished and even publicly defended as normal practice (Ellinghaus, 2009, p.67). Ellinghaus

also gives the following telling quotation from Neville at the notorious 1937 conference. He said:

Our policy is to send them [Aboriginal girls] out into the white community, and if a girl comes back pregnant our rule is to keep her for two years. The child is taken away from the mother and sometimes never sees her again. Thus these children grow up as whites, knowing nothing of their environment. At the extirpation of the period of two years the mother goes back into service so it really does not matter if she has half a dozen children (Neville quoted in Ellinghaus, 2009, p.67).

The second mechanism that Ellinghaus (2009, p.68-69) specifies is that of cultural absorption. This process could be educational, linguistic and religious. However, as Ellinghaus also stresses it did have a sexual component in that the Aboriginal girl could be a target for marriage to a white Australian. She quotes, in this context, Beresford and Omaji's findings that the Sister Kate Clutterbuck home for removed Aboriginal children has an explicit policy of encouraging their girls to marry white men.

The third mechanism (Ellinghaus, 2009, pp.69-72) was government control over who should be defined as Indigenous. This was widely practised in America and also in Australia. In America the government had a vested interest in keeping the number of American Indians as low as possible to avoid having to pay support or compensation (Ellinghaus, 2009, p.62). The same impulse can be seen in Windschuttle's (2002, p.430) attempt to deny the Aboriginality of Michael Mansell.

If Ellinghaus mounts a persuasive case for the omnipresence of biological absorption as a form of genocide, there was also the policy of what Pat O'Malley termed 'Ungovernment'. This was a Foucault type concept developed by Pat O'Malley (1994) to describe WA policy towards specifically the Ngaanatjarra people. It does not mean neglect. Rather it means the deliberate creation of a space where the government decides not to go.

The WA Chief Protector O. A. Neville (1875-1954) had a policy of isolating the 'full-bloods'. He wanted to 'breed the colour' out of the 'half-castes' and the 'quadroons'. His policy for the 'full-bloods' was based on his conviction that their culture would self-destruct and all he had to do was isolate them and they would die out. His enemies were the anthropologists led by A. P. Elkin (1891-1979) and the missionaries led by Rodolphe Samuel Schenk (1888-1969) (O'Malley, 1994).

The anthropologists wanted to preserve the Indigenous culture so they could study it and get their degrees. The missionaries were their mortal enemies, because they wanted to wipe out the

culture which for the Christians came from Satan. Both missionaries and anthropologists however wanted the Ngaanatjarra to survive and so they were both enemies of Neville.

I think the concept of 'ungovernment' is interesting because it is an alternative to the word neglect. I think one could mount a case that communities like that of Wadeye is an instance of ungovernment. However, Taylor (2010) notes that 626 young adults, that is, 71% of the population are unemployed. The Centrelink record for June 2008 indicated only 341 were given a payment (p.36). The remainder presumably do not officially exist. Moreover at any one time 10% of the adults are in prison. There is also evidence that young adults actively seek to be sent to prison (Taylor, 2010, p.47).

As well the community is disengaged from schooling. Hall (2010) tells us that only 21 per cent of the community's 890 school-aged children went to school at least four days out of five'. Everyone knows the school is a disaster. Everyone knows the Catholic Church, which is in charge, would appear not to be committing sufficient resources to it. Patrick McCauley who taught at Wadeye has said:

The Catholic Education Office and OLSH Thamarrurr Catholic School presently provide a second-hand amateur education for the children at Wadeye. Sons, daughters, husbands and wives of teachers are employed by the school and put into various support positions because of the difficulty in getting professional qualified staff for the school. Human Rights lawyers and High Court Judges will tell you that the Catholic Church could be held legally accountable for the failure of education in Wadeye (McAuley, 2009).

Nevertheless it would seem that the Government is happy to hold the ring while the disaster unfolds. This means that we have to understand 'ungovernment' as an active process. The government sets up a space and decides to ungovern it.

Of course these days there are no Nevilles to proudly proclaim a racist policy like ungovernment which was genocide by any other name. Nonetheless, even though these are the days of 'nod-nod and wink-wink', the temptation to construct spaces where the 'Aboriginal problem' will disappear is still there. That is why for the authorities, Wadeye would appear to be an ungoverned 'black hole' (no pun intended). Other communities could of course go the same way.

In his review of the literature on genocide David Markovich's (2010) came to the conclusion that there was evidence 'direct and indirect that the government expressly intended to physically destroy the group [Aborigines]'. He concedes that further research is needed but argues that nevertheless sufficient evidence exists to 'make out a prima facie case [for genocide]. My own

personal feeling as an Aboriginal woman has been well captured by the words of the Aboriginal Lawyer Larisa Behrendt:

... The political posturing and semantic debates do nothing to dispel the feeling Indigenous people have that this [genocide] is the word that adequately describes our experience as a colonised people (quoted in Ellinghaus, 2009, p.73).

Windschuttle's *Fabrication* seems from a First Australian perspective an attempt to deny the truth of those who were the victims of colonialism. Yet as Richards (2008) has pointed out:

Aboriginal people were never offered the same protection as European citizens... Technically killing Indigenous people was unlawful but the police, the courts and the government did not act (Richards, 2008, p.9).

Nor did they act against those who called repeatedly and publicly for the extermination of my people.

The question of genocide is then a controversial one. Still it is one that will not go away, despite the efforts of Windschuttle and Quadrant and the New Criterion. It will not go away because to a large extent it constitutes the ground for the lived experience of so many First Australians. It also represents as it were a water mark indicating the extent of the denial of our Human Rights. This has given rise to what has been derisively called the 'rights agenda'.

Conclusion

This chapter although controvertial has made an attempt to constructively review and debate the legitimacy of powerful voices in Australia who have major influence on government policies that majorly impact on the First Australians. In the next chapter, I will discuss the politics of Human Rights and particularly the attack on them by Peter Sutton and Noel Pearson.

Chapter 5. Engaging Sutton and Pearson

Introduction

This chapter first engages with Sutton and Pearson, and provides a critique of their approaches. It begins the discussion about reconciliation and makes some comparisons including Haiti. The discussion includes an introduction to Modernity and Modernisation theory. An important comparison is made between Pearson's approach to education and that of Sarra's approach as an alternative.

Picture 5.1: Peter Sutton



Source: <http://www.onqconferences.com.au/gpet2010/keynotes.php>

Peter Sutton's (2009) book *The Politics of Suffering: Indigenous Australia and the end of the liberal consensus* has been endorsed by Professor Marcia Langton in her preface to the book and by Paul Kelly (Kelly, 2009) and Christopher Pearson (Pearson, 2009) in *The Australian*. These authors all agree on the book's importance. Christopher Pearson (2009, p.26) in particular hails the book as 'the yardstick by which most recent critiques of Indigenous affairs policy and what comes out on the subject over the next decade will be judged'. Similarly in her preface Langton (2009) claims that Sutton's book is 'one of the more important works in the Australian Indigenous field in the last quarter of a century' (p.vi). Not surprisingly the first print run has already sold out. To balance the praise there is however a useful critique of some aspects of Sutton's text by Jon Altman (2009).

Sutton is a distinguished anthropologist with a history of long term involvement with the First Australians. He is a linguist as well, speaking three of the Cape York languages. His book is subtitled 'Indigenous Australia and the end of the liberal consensus'. It is in fact a polemic against liberal views which emphasise the importance of Aboriginal Culture and the right to self determination of the First Australians.

Unfortunately, despite the importance of the topic and the overall seriousness of Sutton's work, there is much that is annoying and even offensive in the text. This includes his tendency to label his opponents as being 'political' (Sutton, 2009, p.117) while he himself claims to be pragmatic (Sutton, 2009, p.13); his talk of careerism among those whose views he believes belong to 'paradigms lost' (Sutton, 2009, pp.12-31); his use of the racist 'Mau-Maued' metaphor to describe what he sees as the censorship by the politically correct (Sutton, 2009, pp.70-71); and his attribution of criticism of the Federal Intervention in the Northern Territory, as being due to people not having or not caring about children (Sutton, 2009, pp.42-43).

However, these aspects of the book, though annoying, pale into insignificance when contrasted with the book's central intellectual failures. These have to do with Sutton's determination to read the situation as one of a failure of Aboriginal Australia to modernise due to key aspects of our culture. His discussion of this issue is fatally marred by his inability to theorise modernity or to deal fairly with the legacy of colonialism. The latter failure parallels what Paul Farmer (2004) in the Haitian context has termed the 'erasure of history'.

Modernity & Modernisation Theory

Sutton to give him his due is almost aware of his failure to theorise modernity (Sutton, 2009, p.69). Langton (2009) however exhibits no such reservations when in her preface she says:

... Much of the tragedy, misery and death has been 'caused'...by the inability of so many contemporaries of Professor Sutton to imagine Aboriginal life with all the normal trappings of modernity (Sutton, 2009, p.vi).

What Sutton, Langton and also Edmunds (2010) in her analysis of the Intervention do not see is that modernity has already come to Indigenous Australia. It is almost unbelievable that such important thinkers cannot see that the 'normal trappings of modernity' include the fits and the spoons and the petrol cans. Look anywhere in the Western world and this is simply obvious. The irony here is that while throughout the book Sutton polemicises against those who would romanticise and idealise Indigenous culture, he is guilty of the fault of romanticising and idealising modernity. This failure on Sutton's part is all the more remarkable given the fact that the anthropological literature is redolent with debates on the concept of modernity. See for instance the Kahn v Englund and Leach debate (Kahn, 2001).

Sutton does not spell out his intellectual debts clearly. This presents some difficulty for the critic. The risk is that in reconstructing Sutton's thought one can suggest influences which may be operating at a quite unconscious level. It is clear, nonetheless, that he takes the concept of modernity at its face value. Modernity is something 'good' and anything that stands in the way

of modernity is 'bad'. In all likelihood he speaks here from a position that owes much to two leading American intellectuals. Firstly and probably most important in this case is Walt Rostow (1916-2003). The latter worked for the Kennedy and Johnson administrations and was a supporter of the Vietnam War. In 1960 he published his *magnum opus*, *The Stages of Economic Growth: A non-communist manifesto*, which laid out the basis for **Modernisation Theory**. It is, I believe, this theory that underpins in an unstated and unacknowledged way Sutton's work and also probably the thinking of Langton. Admittedly more work has to be done here. In any case whether Sutton has read Rostow or not, what Rostow did was to create a 'common sense' and this has constituted the intellectual climate.

For Rostow (1971) there were five stages to the Modernisation process. These were based on an analysis of the British Economy but were said to be universally applicable.

Stage 1: This consisted of traditional societies. These societies were marked by low levels of technology, spiritual attitudes towards the world and a general sense of fatalism. Significantly in his discussion on Health, Sutton lays emphasis on the role of sorcery (Sutton, 2009, p.142) and fatalism (Sutton, 2009, p.135) in the poor condition of Aboriginal health.

Stage 2: The pre-conditions for a take off towards modernity develop. In the case of Britain these were developed internally, but elsewhere the impulse towards the development of the take off has to be external. When Sutton, (2009, p.136) states that 'the idea of social progress comes from outside Aboriginal tradition' he would appear to be drawing upon the need for an external push towards modernity.

Stage 3: Take off takes place. Industry develops. Investment grows. New technologies proliferate.

Stage 4: This is the stage of maturity where the skill to produce what society needs is there.

Stage 5: This is the stage of high mass consumption and appears to be the Holy Grail of modernisation theory. Interestingly, Marcia Langton's remarks in the Foreword to Sutton's book (p.vi) would seem to indicate that this is for her to the ideal to be attained (Peet, 1991, pp.31-33).

It will not I am sure have escaped our readers that Sutton's narrative also bears an uncanny resemblance to the Samuel P. Huntington / narrative / thesis of the 'Clash of Civilisations' as the motor force for the current world disorder (Huntington, 1993). Huntington (1927-2008) is famous for reading contemporary political history in terms of the clash of cultures and civilisations. In 1993 he wrote:

It is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and *the dominating source of conflict will be cultural*. Nation states will remain the most powerful actors in world affairs, but the principal conflicts of global politics will occur between nations and groups of different civilisations. The clash of civilisations will dominate global politics. The fault lines between civilisations will be the battle lines of the future (Huntington, 1993; Emphasis added).

There have been many critiques of both Rostow and Huntington. In Rostow's case Immanuel Wallerstein (1979, pp.51-60) criticised the very concept of universal stages. Andre Frank (1969, p.40) also pointed out that the Rostow thesis is incorrect because the stages 'do not correspond at all to the past or present reality of the underdeveloped countries whose development they are supposed to guide'.

Most importantly for my purposes, however, is that the model is linear and judgmentalist. Stage One is 'backward' and when it is replaced, humanity is thought to have advanced. This of course sits very well with the colonial mentality that regarded and regards First Australians and First Australian culture as inferior.

In both cases the Rostow and Huntington narratives serve to justify colonial intervention. Let me try to make my point crystal clear. Sutton's *The Politics of Suffering* is a polemic which seeks to justify a colonial relationship between non-Indigenous and Indigenous Australia. He has read that relationship in terms of cultural conflict, where the white culture is modern and superior and the Indigenous culture is backward and inferior.

Alongside Sutton's unacknowledged reliance on modernisation theory we have a very selective approach to history. Thus colonial history is largely ignored while at the same time Sutton evokes Webb's analysis of pre-colonial crania to argue that:

The general pre-colonial picture for Australia was thus one of a high incidence of interpersonal violence affecting the skeletal parts, with women receiving more of this kind of injury than men (Sutton, 2009, p.105).

This is intended to buttress the argument that the present state of Indigenous Australia is not the legacy of colonialism. This attempt reaches its climax in pp.84-5 where Sutton lists those aspects of traditional Aboriginal culture which according to him prevent First Australians from 'performing according to the expectations of a modern society'.

Sutton's writes here as if there were both a standard set of civilised 'expectations' flowing from modernity, and that modernity is as Liu (2003b) put it the 'exclusive characteristic of the West'. Neither assumption stands up to scrutiny. There are and have been several possible forms of modernity and also competing accounts of that process. In Marxist terms modernity is the expression of capitalism (Sayer, 1991, p.12). As such it is based on the exploitation of labour power of the working class by the capitalist class (Sayer, 1991, p.33).

On the other hand for the Weberian, modernity is a form of society characterised by large-scale industrial production, technological rationality, the inexorable power of material goods, bureaucratic administration and a pervasive 'calculating attitude' (Bottomore, 1985, p.26).

We get, of course, a very different kind of politics if we view modernity in Marxist as opposed to Weberian terms. It is hardly surprising that Sutton would appear to be much more on the Weberian side. Interestingly for all his complaints against those who romanticise First Australian culture, he is himself, with his tirade against the 'hideous Orwellian language of management-speak' and the 'language of managerialist welfarism' (Sutton, 2009, p.211), very much in the tradition of romantic critiques based on Weber's notion of modernity as a 'stalhantes Gehäuse' or steel housing (cited in Scott, 1997, p.562).

I have a good deal of sympathy in this case for Sutton's response to the language of management. Who doesn't? However Sutton's failure to show any awareness of the need for a moral critique of modernity is much more serious and it severely weakens both his text and his reading of what is to be done.

I turn from Sutton's approach to the work of the medical anthropologist Paul Farmer (2004b) in order to outline what I feel is a much more moral and fruitful approach to First Australian suffering. In his Sydney E. Mintz memorial lecture, Farmer (2004b) begins with a narrative of his encounter in the free clinic he runs in Haiti with a woman with the most terrible metastatic breast cancer. The woman had been tramping all over the island to seek treatment and now had joined the hundreds queuing inside and outside Farmer's clinic. The details of her complaint are harrowing in the extreme and Farmer does not spare us. Though he then makes a methodological move which Sutton gives no evidence of even contemplating! Farmer goes from the instance of the cancerous breast to ask why this woman is suffering. Why is she untreated? Why is she in a queue when all over the island there are empty hospitals? Farmer finds the answer in the structural violence which has doomed Haiti to poverty as a punishment for the successful slave revolt of 1791-1805.

This began with the imprisonment of one of the great figures of the Enlightenment the ex-slave Toussaint L'Ouverture in 1802 (Buck-Morss, 2000, p.834) and continued with the French led

embargo on the new republic, an embargo which was only lifted when the Haitian government paid 150 million francs in compensation to the ex-slave owners in 1825 (Farmer, 2004b, p.312).

There is much more in Farmer's lecture about how the attacks on Haiti were continued by successive USA administrations and how these structure the conditions for the poverty and misery and suffering that has Haiti in its grip today. As I have said Sutton's approach is very different. For example he claims that:

One of the more powerful traditional factors in preventing adaptation to contemporary living conditions is the instilling in many Aboriginal people, from an early age, of a belief that most serious illnesses and most deaths are due to the ill-will and sorcery of other people (Sutton, 2009, p.142).

Farmer too in his discussion of the role of Haitian folk beliefs broaches the topic of sorcery as an explanation for tuberculosis. But he notes that such explanations made way in the 1980s for a view of tuberculosis as an 'airborne infectious disease' (Farmer, 2004b, p.315). The reason for the decline in the belief in sorcery as the origin of tuberculosis was a successful anti-tuberculosis treatment program (Farmer, 2004b, p.315). So the crucial variables here are contra Sutton, not the presence of folk beliefs, but the presence or absence of an effective course of treatment and the political will to provide it.

Reconciliation

If Sutton (2009) has failed to provide us with a moral critique of modernity, his discussion of the reconciliation process is marked by a similar blindness to the moral imperatives behind the reconciliation. His approach is marked by hostility to what he terms a process of 'rendering the rough grain of the personal into the smoothness of the collective' (Sutton, 2009, p.164). His ideal model for reconciliation is the twosome or 'couple' and his paradigmatic case is that of the Anthropologist and his or her informant. So taken is he with this model that he devotes an entire chapter to the 'Unusual Couples' that were formed by a number of anthropologists and their informants. For Sutton these couples give us the 'kind of reconciliation that matters most (Sutton, 2009, p.193). The problem here with Sutton's romanticising of the relationship between the Anthropologist and his or her informant is that this is not only the ideal model for reconciliation; it is effectively for him the only possible one. For Sutton an act of reconciliation which involves the collective dimension runs the risk of dividing 'us' (Sutton, 2009, p.202).

Such use of scare tactics is a common strategy throughout his book. Thus Sutton (2009) explicitly links his criticism of Australian cultural relativism and multiculturalism to the anti-immigration movements in Europe where he claims there is a 'similar disenchantment with

multiculturalism, particularly where there are large numbers of non-assimilating and largely in-marrying enclaves of migrants whose dependence on the welfare economy makes immigration a central political issue' (Sutton, 2009, p.161). My point of criticism here is not Sutton's woeful over simplification of the processes of changes in capitalist economies in the European Union (EU) and the re-emergence of mass unemployment and neo-Fascism and Nazism. Bad as that is, I wish to stress that Sutton's scare tactics prevent me from understanding the process of nation building that First Australians have been attempting. Moreover the necessary emphasis on Reconciliation having a formal, administrative or 'collective' level does not preclude a personal dimension. Contra Sutton, the two are compatible and not essentially hostile to one another.

Still Sutton will have none of this. Thus he concludes his discussion of the Reconciliation Process and his book by quoting two poems - the first by Robert Frost on 'Mending Walls', the final one by John Donne on his death and his coming reunion with the Divine seen as a 'restored oneness'. For Sutton formal reconciliation runs the risk of harming the social fabric by building walls between First Australians and the rest of Australia and presumably the much desired oneness.

This touches upon a theme that while obviously of great concern to Sutton, might well seem of much less importance to First Australians. The theme is the necessity for preserving what Sutton terms 'national oneness' or what others have termed One Nation. Sutton's concern reaches near hysterical levels when he talks in tones of shock and horror of Geoff Clarke's, former Chairperson of Aboriginal and Torres Strait Islander Commission (ATSIC), self-description of himself as 'a vice-president of the Aboriginal Provisional Government' (Sutton, 2009, p.198), or when he conjures up the spectre of the 'machine guns set up in Martin Place in Sydney and the fascist 'New Guard waiting in the wings' in the 1930s (Sutton, 2009, p.203).

Sutton is incapable in this instance of seeing Clarke's determination to achieve a treaty between Indigenous Australians and Federal/State Governments, as an attempt by First Australians to seize control over the process of modernisation. Clarke's endeavour to create a First Australian nation within the Australian state, may not be welcomed by Sutton and the One Nationers however, it is a quintessentially modernist move.

Moreover Sutton's talk of the 'fragile achievement of social cohesion... as precious thing to be shielded and fostered, [and] not merely assumed' (Sutton, 2009, p.203) is both romantic and inaccurate. What 'social cohesion' is he talking about? What have cohered in Australia are structures of domination and inequality that directly impinge upon Indigenous Australians, as

the Federal Government's recent report makes all too clear. Indeed these structures are, alas, far from fragile and they are certainly not 'precious'.

A tale of two Narratives

[Much of the material in pages 110-113 was published by myself and Gary MacLennan in the online blog *[Marxism] Anthropology, Narratology & the Politics of Indigenous suffering* (Smallwood and MacLennan 2009a)]

At the heart of Sutton's book are a cluster of historical narratives. He is at pains to reject out of hand the anti-colonialist narrative (Sutton, 2009, p.81) but he does give a somewhat fuller account of two others. How is one to approach these narratives? Basically and over simply, I think we can approach narratives along the Kantian pathways of the good, the true and the beautiful; that is we can ask whether the narrative is true (The Cognitive), how moral it is (The Ethical), and how it is composed and argued (The Aesthetic). The trick it seems to me is to be aware of the need to tread all three pathways and also to be aware of which pathway one is on at any particular time.

There are two narratives at the heart of Sutton's work. They also have two crucial dates. The first of these is 1978, when the missionaries were told to pack up and leave the Aboriginal settlements and the latter were supposed to come under self-determining community councils. This was for Sutton the 'road to hell'.

The moves to get rid of the missionaries and to enshrine self-determination were guided by what Sutton terms the 'liberal consensus' which in turn was underpinned by a progressive cultural relativism which valued traditional First Australian culture highly. There was also in this move, according to Sutton, an implied rejection of 'modernity'. The latter as we have seen above is a concept which Sutton does not see the need to theorise in any way. To repeat, it would appear that for him and Langton too, there is only, one possible, modernity and it is also the best of all possible worlds.

What is true about this narrative? The condition of the First Australians has been recently documented in the Australian Productivity Commission Report, 2009. The report highlights the appalling conditions of Indigenous Australia that appears to be deteriorating (Australian Productivity Commission, 2009). So that much of the narrative is true. Especially in the remote communities, many Indigenous Australians are living in hell. However, it is when we come to the cause of all this, that the untruth of the narrative appears most starkly. To begin with as Altman (2009a) points out, there is no 'liberal consensus'. From 1996-2007 Aboriginal Affairs were run by the very conservative Howard Government, whose actions and policies were

certainly not over determined by any commitment to a 'Rights Agenda'. Indeed the very first action of the Howard Government was to cut \$470 million dollars from the budget (Melham, 1998). There is no mention of this in Sutton's text.

Nor is there any clear analysis of what the overall picture of the Federal and State funding for First Australian Affairs is. The tendency though, is to argue that the current 'dysfunctionality' of First Australian society cannot be laid at the door of insufficient funding. Accordingly funding is presented as being either sufficient or generous and in any case of little effect. Sutton (2009, p.25) describes the funding for outstation development as 'far more substantial' than it had been in the 1970s and 1980s. Similarly the 'unprecedented levels of funding' is contrasted with the 'rapid decline in Aboriginal people's lives' (Sutton, 2009, p.6). This tendency to remove funding as a causal factor reaches almost poetic heights when Sutton talks of the 'increasingly heroic amounts of funding...on Aboriginal health' (Sutton, 2009, p.114).

However, the picture remains confused when Sutton writes of how Killoran's regime 'was chronically short of money' (Sutton, 2009, p.19). Again in a similar vein, Sutton cites as one of the reasons for the failure of 130 remedial violence programs, the 'lack of funding or insufficient funding' (Sutton, 2009, p.73).

Rather than targeting short falls in administration or cuts in funding or the decimation of infrastructure when equal pay was forced on the Queensland government in 1986 (Kidd, 2000, p.344), he aims his polemic at those aspects of traditional First Australian culture which he believes have contributed to the present disastrous situation. Thus there are long passages (Sutton, 2009, pp.87-107) on violence in traditional First Australian culture as well as sections on alleged child rearing practices such as 'cruelling' where the child is treated roughly or deprived of food in order to provoke the child's anger (Sutton, 2009, pp.111-112), or where the child's anger especially that of 'boys against women' is tolerated (Sutton, 2009, pp.113-114). It is here that Sutton wants us to look for the causes of First Australian disadvantage rather than to 'dispossession, dislocation, separation, exclusion from services, inadequate services and the tyranny of distance' (Sutton, 2009, p.81).

As we have seen the intellectual driving force behind Sutton's approach comes from Modernisation Theory and notions such as the Lewis-Huntington / narrative / thesis of the 'Clash of Civilizations' as the motor force for the current world disorder (Huntington, 1993). The narratives that emerge in both cases serve to justify colonial type intervention. In saying this, I have I believe laid the ground for a moral critique of Sutton's work. I do not doubt his concern and genuine sorrow at the suffering of his First Australian friends. The logic of his rejection of self-determination and also of his critique of Aboriginal tradition and culture paired

with his romanticised and idealised view of modernity is that Aboriginal Australia should once more be subjected to White Authoritarianism. Indeed, Sutton is a supporter of the Howard intervention in 2007 into the Northern Territory (see Sutton, 2009, p.8). Sutton will not come right out and say it, but clearly the logic of his assault on First Australian culture and his professed preference for 'national oneness' is that of assimilation.

To argue in this way, is to lay myself open to the charge, and it is one that Sutton explicitly makes (Sutton, 2009, pp.10; 42-3) of not caring about the abuse of children in Indigenous settlements. Just as we are in Afghanistan to liberate women from the burqa, it would seem that we are in Indigenous settlements to save the children. I will pass over here the historical fact that the greatest abusers of First Australian adults and children have been the white colonists. However I will point out that beneath what is really polemical abuse posing as moral outrage, Sutton has set the stage for those who would trample on Indigenous rights in the name of modernity and of course progress.

A final point about the aesthetics of Sutton's narrative, how is his story told? Well, it fits neatly into the decline and fall format. He is reluctant to endorse the regime of the missionaries, but there is a sort of nostalgia for the 'pre-liberal consensus' days. Sutton (2009, p.19) gives us a short pen portrait of Patrick (Paddy) Killoran, Director of Aboriginal Affairs from 1964 to 1986. Killoran was a brutal man who ran Aboriginal Affairs as an absolute dictator. Rosalind Kidd (2000) has a good deal to say about his reign and how he fought tooth and nail against equal wages for First Australian workers. Nevertheless, for Sutton, it is almost a case of 'Come back Paddy, all is forgiven'. Thus he writes:

[n]ow I have a more complex view of Killoran's regime, based partly on archival documents. It was oppressive and could be vindictive. It was chronically short of money. But Killoran was right about the decline of health that would follow liberalisation of local regimes (Sutton, 2009, p.19).

Sutton does not tell us what 'archival documents' justify his reassessment of Killoran's rule. By contrast Kidd's work is based on a very thorough study of the archives and would seem to deny the possibility of any justification of what Killoran did. In spite of this for Sutton he was merely a 'policy dinosaur' (Sutton, 2009, p.19). Presumably by this means that Killoran stood in the way of the onward march of modernity. In any case, the granting of equal wages in 1986 to groups like Indigenous nurses and other workers on the Settlements and Reserves against the explicit advice of Killoran, was followed by a savage round of job cuts which devastated the economies of the local councils, which were then granted 'self-determination'.

Kidd's judgement on all this seems to me to be much more accurate and moral than Sutton's who is totally silent on the 1986 assault on Indigenous workers. She writes:

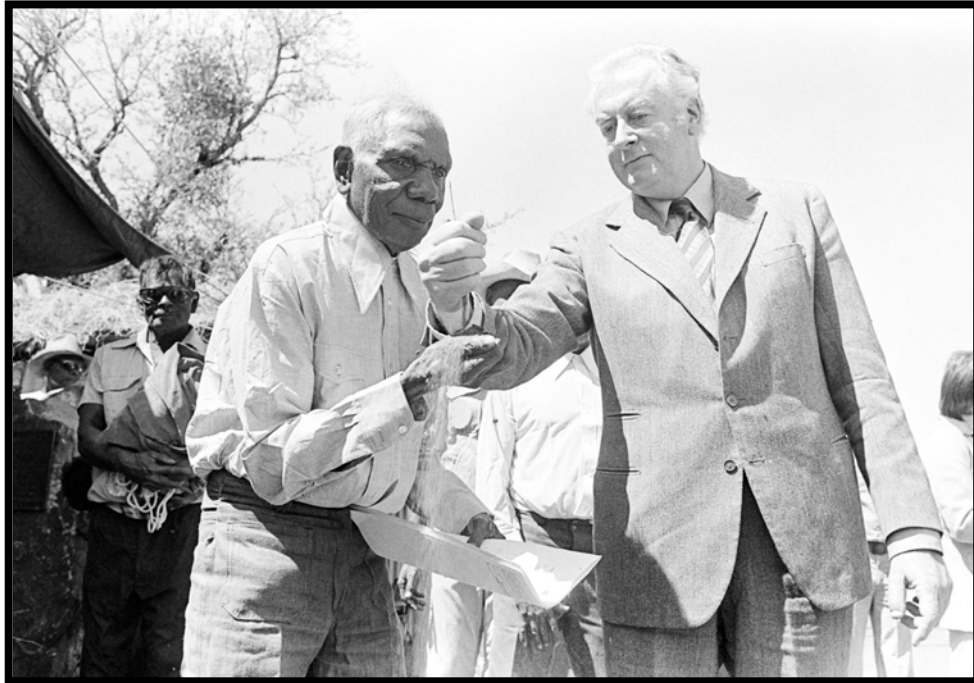
Records reveal the willingness of state bureaucrats and politicians to manipulate the changing options of community management so as to sabotage 'opponents' and entrench existing controls. They reveal the horrendous price exacted on the communities as public officers charged as guardians of Aboriginal interests, deliberately decimated workforces and infrastructure as wage rates lifted despite them. Queensland Aboriginal communities are today struggling to overcome the legacy of nearly one hundred years of such disgraceful management (Kidd, 2000, p.344).

Kidd's verdict brings us also to the heart of the alternative narrative that Sutton (2009, p.53; p.58) mentions but neglects to foreground or develop in his anxiety to blame Aboriginal culture for the current state of Indigenous Australia. This was the Equal Pay decision of 1968 when Indigenous workers in the pastoral industry were granted equal wages with their white counterparts by the Federal Court. The pastoralists reacted by sacking Aboriginal stockman and domestics. Dawn May (1994) gives a good account of the details of what happened. Incidentally the fight for equal wages had been strongly supported by the Australian Communist Party (Hardy, 1968). The impact of the mass sackings in the pastoral industry was the devastation of the Indigenous economy. There was no attempt to redress this by governments. Nor was there a chorus of 'something must be done'. By and large, White Australia viewed the destruction of the Indigenous economy with a great deal of equanimity. It is here rather than in the practices of 'crueling' or the absence of missionary discipline or the advent of 'passive welfare' that one can find the causes of the current 'dysfunction'.

It is easier of course to blame Aboriginal culture and the 'baby boomers' rather than the often malicious actions of capitalists and government bureaucrats. Nevertheless, the second narrative which revolves around 1968 and not with the departure of the missionaries in 1978 is surely truer in the Bhaskarian sense of giving us a reason for things (Bhaskar, 1993, p.211) i.e. for the devastated state of Indigenous communities.

The First Australians quest for an alternative modernity: the case of Vincent Lingiari

Picture 5.2: On 26 August 1975 Prime Minister Gough Whitlam handed a leasehold title to land at Daguragu (Wattie Creek) to Vincent Lingiari, representative of the Gurindji people



Source: National Archives of Australia, Canberra

The story of the 1971 Wave Hill strike, and the 1968 Equal Pay judgment and its consequence, provide I would argue an antidote for Sutton's idealisation of modernity. His implicit belief is that modernity is the defining attribute of White Australia. The story of the Wave Hill Strike is an inspiring one. It revolves around courage and solidarity and a determination to strike for basic rights. This solidarity not only included the Gurindji people who stayed heroically together for eight years (Hardy, 1968). It also includes the union organiser Dexter Daniels and the white people who attended pro-strike meetings held throughout Eastern Australia and who gave generously to support the strikers to prevent them being starved back to work (National Museum of Australia, n.d.).

It is in understanding the concept of solidarity that one can come to appreciate the universalistic nature of the Gurindji actions. When Vincent Lingiari (Hardy, 1968) demanded wages equality and an end to the sexual harassment and exploitation of Aboriginal women by the white ringers, he was acting out the core promise of modernity – 'We hold these truths to be self-evident. All men are created equal...'

He and his people were then the bearers of the universal. Despite all the complex mediations involved, the people of White Australia who gave to the strike fund, were recognising that they and the Gurindji people shared what Bhaskar (1993, p.178) has termed 'core universal humanity'.

This is an important point, for it is crucial to recognise that the impulse towards the universal is not as Sutton (2009, p.84) appears to believe the property of the Whites. Nor are doctrines such as the common good 'essentially foreign ideologies' (Sutton, 2009, p.85) to First Australians. The Rights of Man may historically have been proclaimed first in the West but as the history of events such as the Haitian revolution, and I would add the Wave Hill strike, showed they are not the property of the West.

Buck-Morss's (2000) cites the Polish regiment who refused to carry out the orders of the genocidal French General Charles Leclerc to drown 600 hundred black prisoners, as an instance of the consciousness of 'individuals [surpassing] the confines of present constellations of power' (Buck Morss, 2000, p.865). It is in such moments that the possibility of an alternative modernity can be glimpsed. Moreover I would argue strongly that it is people such as Vincent Lingiari, who show us the way to such modernity.

Sutton (2009), though, makes little mention of the Wave Hill strike or the equal wages case except for a patronising and inaccurate reference to the:

... old working-class unionist Left ['s]... historic if short lived front row-forward role in Aboriginal politics (Sutton, 2009, p.14).

Throughout, he is so pre-occupied in constructing Indigenous Australia in terms of **being** that he neglects the truth that Indigenous Australia have been and also are engaged in **becoming**. Thus he can write:

The idea of social progress comes from outside Aboriginal tradition (Sutton, 2009, p.136).

By contrast with the Gurindji strikers who turned to the modern institution of trade unionism, the Vestey Corporation were thoroughly non-modern in their approach to their workers. In so doing they were like the gentry of Brazil who as Dom Helder Camara (1969, p.20) pointed out were 'medieval' in their response to the rural trade unionism of the Brazilian peasantry.

Indigenous Australia is indeed in a parlous situation. The statistics, as outlined in Chapter One, leave no room for any doubt here. We have then a set of stark choices. The Federal Intervention into the Northern Territory clearly outlines one path and this is the path that Sutton

has chosen to support. There is conversely another path and this is one that begins with a questioning first of the entire role of the powerful and that means the role of the White community. The colonists have brought to Australia a modernity which is deeply flawed. If we are honest we will recognise that it is marked, as Kahn (2001) has pointed out, by 'violence, extreme inequalities, environmental destruction, deprivation [and] racial exclusion'. We should also admit the existence of what Paul Farmer (2004a) calls 'structural violence'. This is a category drawn from liberation theology to describe social structures. It is this situation which must be reversed. All of us must work to build in Australia an alternative modernity. The one we labour under at present is dominated by what Bhaskar (2002, p.33) has outlined as 'egocentricity; false and abstract universality; incomplete totality; lack of reflexivity; judgementalism combined with unilinearity; formalism ...; and materialism'.

By contrast Liu (2003b) has called for a modernity which is infused with the Confucian values of 'sympathy, distributive justice, duty consciousness, ritual, public spiritedness and group orientation' I echo Liu's demand and would add that White Australia has much to learn from traditional First Australian values of egalitarianism, solidarity and respect for the Other (Strelhow, 1956).

We need to go then from this questioning of the dominant form of modernity, to making Reconciliation a process of the active creation of a partnership between Black and White Australia. Such a partnership needs to give concrete value to the citizenship that First Australians won in 1967. As citizens, the rights of First Australians must once again come to the fore. I make no apologies here and have nothing but scorn for Sutton's attack on the Rights Movement and his talk of how 'some people persist in projecting alleged solutions that will magically materialise after further changes in stratospheric rights' (Sutton, 2009, p.41). Sutton does not make clear what he understands by 'stratospheric rights'. I on the other hand understand by the Rights Movement an end to official tolerance of the kind of First Australian disadvantage, revealed by the Government's own statistics. Only when this materialises will we have modernity and a country to be proud of.

Now to Noel Pearson

Picture 5.3: Noel Pearson and John Hartigan CEO Chairman of News Limited



Source: <http://www.couriermail.com.au/questnews/central/news-limited-launches-reconciliation-action-plan/story-fn8m0qb4-1226112939871>

The advent of a Quarterly essay (2009a) by the Director of the Cape York Institute, Noel Pearson, is to be welcomed unreservedly. At a time of great uncertainty, it affords us an opportunity to examine the thinking of one of the most influential Indigenous leaders. The state of Indigenous Australia is, as I have already emphasised, truly shocking and explanations and proposals for change are desperately needed. It is significant that Pearson has chosen education as a key arena for policy development. I concur with that choice, but it will be very clear from what follows that I am sharply critical of Pearson's approach, both in analytical and political terms. For me his endorsement of the Siegfried Engelmann Direct Instruction approach, as the necessary and sufficient solution is deeply flawed. Moreover his attack on his opponents in the educational bureaucracies and the Academy, and further his attack on the critical literacy movement in general, are unfortunately posed in the language of right wing populism. Indeed it is my opinion that not since the heyday of Rona Joyner (Freeland, 1979) has such a polemical attack been launched on the educational apparatus. In what follows I respond to what I perceive as the principal themes and topics in Pearson's essay.

A Serious People?

Pearson begins his essay in a deeply moving way. He goes first to the story of the destruction of the Crow nation as narrated by Chief Plenty Coups to Jonathan Lear of the University of Chicago. There is much to be learned as I mentioned in Chapter Three from the account of the havoc that colonialism spread amongst the Indigenous people of the Americas. The parallels

with the experience of Australia's the First Australians are all too exact and harrowing. Yet Pearson chooses not to dwell on them and moves swiftly to his own people. Significantly the initial way of seeing the latter is through the gaze of the anthropologist W.E.H. Stanner. The latter writes about his informant, Durmugan, as the exotic other and the erotic undertones are barely suppressed:

... His voice was musical, his manner easy and his smile disarming. I was much taken with him. I noticed particularly how smoothly contoured was his body, how small his feet, how sensitive and finely boned his hands (Stanner, quoted in Pearson, 2009, pp.4-5).

Durmugan's life story as related by Stanner does not end well. The younger generation of First Australians does not respect him and he loses control over his own family. This is the occasion for Pearson to ponder the question whether the First Australian people are 'serious'. He lists three qualities for seriousness – determination, discipline and orthodoxy. By orthodoxy he seems to mean adherence to traditional Aboriginal law. However, the problem here, according to Pearson, is that Aboriginal Law had not evolved sufficiently to protect the people from white vices such as gambling and drinking (Pearson, 2009, p.11). So if the ancient rites can no longer protect the people what is the solution? Pearson's response is to call for a turn to education. That is to be the test of how serious the First Australian people are.

'No Excuses', the Attack on the Critical Literacy Movement and the Endorsement of Direct Instruction.

Firstly, we find Pearson's signature tune – the attack on any move to explain the condition of First Australians (2009a, pp.10-11). The problem here is that Pearson does not seem to understand the vital role of explanation in the process of human emancipation. Following Bhaskar (2010) I would argue that explanation is vital for emancipation. Where explanations have led to what Pearson terms 'excuses' the problem is that the explanations offered, have not been deep or thorough enough. By this I mean that they must attempt to explain all the causal factors. Aboriginal Australia cannot be understood unless we address the nature of the relationship between white and black Australia. It is not only Indigenous Australians that must ask themselves about seriousness. White Australia too has to think about whether it is serious about such things as Reconciliation and Closing the Gap.

For both Black and White and Australia, seriousness will depend upon explanation. To achieve this I advocate the following of the methodology of the medical anthropologist Paul Farmer (1996). To explain the horrors of the suffering of his patients in Haiti, he begins, as we have seen earlier in this chapter, with the concretised singular biography and then proceeds to go

deep historically, broad geographically and to hold simultaneously in place the social axes of gender, ethnicity and socioeconomic status (Farmer, 1996, pp.274-8). If we follow Farmer's methodology a very different world view emerges.

Pearson will have none of this, to the cheers of the Right, his polemic against structural explanations for the current state of Indigenous Australia marches forward relentlessly under the banner of 'No Excuses'. He ranges widely, but as one picks one's way carefully through the names littering the text, one finds that as usual, it is America that he turns to. Thus Obama's 17th July speech is the structuring device around which the anti-excuses polemic is constructed. At the heart of Pearson's argument is the structure-agency debate, and the emphasis is on agency. We do, it is true, and have the acknowledgment of 'disadvantage'. This acknowledgment, though, never strives for explanatory value. Thus the category of 'disadvantaged' is simply taken-for-granted. Nor of course is there any explanation for the preference for 'disadvantaged' over say 'exploited' or 'oppressed'. In Pearson's text there is no history to the concept of disadvantaged. There is no explanation as to why it exists or how one becomes disadvantaged or even advantaged.

Indeed one gets the distinct impression that one becomes advantaged in Pearson's world by receiving a strong dose of 'Ziggy' Engelmann's Direct Instruction. Pearson even goes so far as to say:

The appalling crime and imprisonment rates of African-Americans could have been a fraction of what they are today if the young black children born in the forty-five years since the Civil Rights Act had been given the effective education to which their newly won citizenship entitled them; if the massive investment in Head Start had been followed by a comparable investment in what should have been the outcome of Project Follow Through. Even the children born out of wedlock to poor, teenage black mothers were children with the potential learn and to make good in life. Siegfried Engelmann had a solution for them (Pearson, 2009a, p.102).

It would seem that the cure for disadvantage exists, however it has not been applied. 'Why?' one asks. Pearson's (2009a) guts churn and tell him that the villains are not what he terms the 'front-line educators' i.e. the classroom teachers. These are 'highly sensitive to the needs of children (Pearson, 2009a, p.92). Rather those responsible lurk in the academies and the bureaucracies. They are the ideology producers who 'have investments in certain ideological tenets, which they vigorously champion' (Pearson, 2009a, p.92).

There is much dark muttering from Pearson about these 'educrats' who cause confusion (Pearson, 2009a p.92). Thus he tells us that his 'viscera' are 'writhing like a tangle of fitful

snakes in a belly of brine' (Pearson, 2009a, p.26), at the thought of how the same 'bureaucrats' who reacted favourably to Obama's speech, had accused Pearson of 'blaming the victim' when he first rolled out his 'No Excuses' manifesto. However, bureaucrat-bashing, name calling and colourful metaphors, while enjoyable, are no substitute for critical intellectual engagement with the ideas that Pearson (2009a, p.92) assures us are 'bad'. We deserve something more serious from someone like Pearson who has urged his people to be 'serious'.

This is especially so in the case of Pearson's remarks on the Brazilian educator, Paulo Freire. Pearson's attack on Freire comes within the context of his critique of progressive education and in particular the critical literacy movement (Pearson, 2009a, pp.77-84). The essay rambles somewhat here. There is unfortunately no attempt to systematically name and outline in descriptively adequate terms, who and what Pearson is attacking. Thus, he never clearly names the critical literacy movement. This makes it difficult to re-construct a clear line of argument. Though, some themes seem to emerge clearly. Most important of these is the stageist approach to literacy. Pearson is more than explicit here. He proclaims: 'Get the skills in first...The acquisition of skills and knowledge should have clear priority over the fostering of critique' (2009, pp.80-81). He goes on to argue that to go against this golden rule, is to 'impede the singular focus required for the mastery of foundational skills' (Pearson, 2009a, p.81) and thus to prevent the disadvantaged from rising up.

The development of a critical capacity is postponed to the lonely hour of the last instance it would seem. No evidence is produced for these assertions. We are meant to be reassured here by a somewhat obscure reference to the 'Reading Room of the British Museum' (Pearson, 2009a, p.81). For Pearson, it would seem that the basis for Marx's *Capital*, was the traditional rote learning Marx received in his classical German education. This was not the revolutionary struggles of 1848, or his encounter with the thought of Hegel (Wheen, 1999, pp.21-2).

Pearson follows this reference to Marx by an attempt to reconstruct 'leftist thinking' and to oppose it to the 'political correct [ness]... false consciousness... [and] moral vanity' of the critical literacy movement. The spectacle of Pearson attempting to describe Left wing thinking is enough to tempt one to paraphrase Dr Samuel Johnson and say that Pearson in trying to tell us what the 'old Left' would believe, is like a 'dog walking on his hind legs. It is not done well; but you are surprised to find it done at all' (Johnson quoted in Boswell, 1917).

Pearson, (2009a), next proceeds to talk of the 'baleful legacy' of the critical literacy movement and to lay the blame all at the door of the Brazilian educator Paolo Freire (Pearson, 2009a, 1921-97). Again no evidence is forthcoming. Instead the right wing populist demagoguery comes thick and fast. This is Pearson at his very worst as a thinker. There is for instance no

attempt at all to outline and challenge the basic tenets of Freire's pedagogy. Instead, we are given abusive remarks about the religious basis of Freire's work (Pearson, 2009a, p.82) and even of his personal appearance (Pearson, 2009a, p.83). We are also assured by Pearson that Freire 'added to the perpetuation of oppression by diverting education away from what the oppressed really needed' (Pearson, 2009a, p.83).

In the absence of any proper analysis of Freire's theoretical and practical work, one is entitled to dismiss Pearson's views as mere assertion and the kind of rhetoric that plays well in the Murdoch Press. One is also entitled to point out moreover that a great number of prominent educationalists have taken and continue to take Freire's work very seriously (Giroux, 1985; Lankshear, 1987, 1997; Mackie, 1980, 1997; McLaren, 2000; McLaren and Leonard, 1993; McLaren and Lankshear, 1994; Rosen, 1977; Shor, 1980; Temple, 2005). Freire's critique of the banking concept of education, his insistence on a dialogical role for the teacher, the necessity of self-emancipation, and his innovative pedagogy based on the syllabic nature of Portuguese, all merit serious attention. Nevertheless, for Pearson Freire's pedagogy is all 'nonsensical' and he proudly gives us the Philistine boast that he 'doesn't get it' (Pearson, 2009a, p.82).

What is one to make of all this? To begin with we have the championing of 'Ziggy' Engelmann as the strong leader and the 'one cure that fits all'. Then we find the negative instance of the bad leader where Freire is demonised. Surely all this borders on the bizarre if not the pathological. It seems almost yet another instance of Pearson's *Führerfehnsucht* and fascination with strong leaders (Pearson, 2009b, pp.1-4; 251-2).

Pearson, the seeming expert on Marxism, assures us that Freire's views are 'quite unlike the original critiques of liberal political economy produced by Marx and Engels' (Pearson, 2009a, p.82). This is simply uninformed nonsense. To begin with Marx and Engels produced much more than critiques of liberal political economy. They were revolutionaries concerned with the emancipation of the proletariat. Here Freire's insistence on dialogic education and the involvement of the people in their own liberation meshes perfectly with Marx's emphasis on the necessity for self-emancipation (Draper, 2007). In a similar vein, *contra* Pearson's claim that Freire's views are unlike the critical theories of the Frankfurt School, one could argue that Freire's critique of the effects of cultural invasion (Freire, 1973, pp.121-135) is very compatible with the Horkheimer and Adorno's criticism of mass culture (Jay, 1973, pp.173-218).

Furthermore, the allegation that Freire's work has been 'counter-productive' simply does not pass scrutiny. Certainly in 1964 the Brazilian military dictators thought his work dangerous enough to warrant his imprisonment as a 'traitor'. In addition, Pearson exaggerates the

influence of Freire in Australia. It is true that the critical literacy movement claim Freire as one of their key influences and they also boasted that Australia was 'the country where Freire's ideas have found the most fertile soil in recent years' (Temple, 2005, p.18). The reforms instituted by the critical educational theorist Alan Luke, have since been largely wound back. After reading Luke's work one sees that his 'wing' of the critical literacy movement owes as much to Foucault as to Freire (Luke, 2000).

Beyond the attack on the critical literacy movement there is above everything, the all out assault on the 'ideology upholders in the educational bureaucracy' (Pearson, 2009a, p.92), the middle class left who pretend to sympathize with the First Australians (Pearson, 2009a, pp.91-92) and the 'ideology producers in the academies' (Pearson, 2009a, p.92). Somehow they all come together in some kind of perverse conspiracy (Pearson, 2009a, p.89) to 'impede the prospects of the disadvantaged' (Pearson, 2009a, p.90).

It is this critique of progressivism that forms the heart of Pearson's essay and it is the aspect of his work that is most difficult to criticise, because it does not have descriptive adequacy. Australia has been in the grip of conservatism at least since the dismissal of the Whitlam government in 1975. I wonder too when the Left had any power in Queensland. Did I dream up the Creationists and Rona Joyner and her role in the banning of Semp and Macos in Queensland schools (Harris, 1999)? Did I dream that there was once a Premier of Queensland who said:

The philosophy of education in Queensland must be geared to the service of the state and not those who seek to overturn or pervert education, for their own narrow social objectives (Bjelke-Petersen quoted in Harris, 1999, p.6).

No, I did not dream the power of the Right in Queensland education and their visceral hatred of educators. Of course, for the Right of Bjelke-Petersen's time the enemy then was the educationalist Jerome Bruner rather than Freire. Just like Pearson not understanding Freire, Rona Joyner does not understand Bruner and she stamped out his progressive theories. Yet Pearson continues to see progressivists beneath the bed. Is it any wonder that the Murdoch press is highly influenced by him!

What though of the 'solution' - Engelmann's Direct Instruction? For Pearson, (2009a, pp.41-54) this is the one true scientific method and is beyond criticism. Controversy abounds here and it is not my intention to join the polemics. Although I do wonder if Pearson is as familiar with the relevant research as he claims. Thus Erik de Corte (2010) in his review of historical developments in the understanding of learning cites Mayer's (2004) overview of forty years of

research that concludes that ‘guided discovery learning leads to better outcomes than direct instruction’ (Pearson, 2009a, p.53).

I do moreover have reservations though about the reliance on teacher scripts. That seems to me an approach which risks alienating both teacher and learners. There does appear here to be some evidence from the Families Responsibilities Commission (FRC) 2010 Report that there have been problems with implementing the Direct Instruction Curriculum at Aurukun State School (Families Responsibilities Commission, 2010, p.14). Moreover, it must be noted that attendance at Aurukun State School has fallen, despite claims to the contrary from the Families Responsibilities Commission (2010, p.33).

Overall my attitude towards Direct Instruction is very influenced by the conclusions reached by James F. Baumann, an advocate of Direct Instruction. Baumann’s views, although of a less structured variety than that of Engelmann, seem to me to be eminently sane, moderate and sensible. He says:

In short, I view direct instruction as only one means to deal with one aspect of a total literacy educational program... During a debate on the merits of direction instruction approaches, Pearson (1986) was asked how much direct instruction is necessary. He responded ‘as little as possible’. Pearson’s terse but insightful comment perhaps should be used as a guide when designing and evaluating literacy educational programs.

Should direct instruction be a part of such programs? Indeed I believe it should. Should it be used indiscriminately or should it dominate the curriculum? Certainly not!

Direct Instruction is neither a panacea nor a curse. It simply represents one additional tool that has its place in a balanced reading and language arts instructional program. Like most other educational methodologies, direct instruction should be used wisely, discriminatingly, and in moderation (Baumann, 1988, p.717).

The Critique of the Strong and Smart Movement

[Much of the material in pages 123-125 was published by myself and Gary MacLennan in the online blog *Response to Pearson Quarterly* (Smallwood and MacLennan 2009b)]

In this section of his essay, Pearson’s analysis does at least have something of a descriptive basis. The Indigenous educator Dr. Chris Sarra does exist and continues to have an enormous

impact on Indigenous education throughout Australia. Pearson's (2009a, p.94) first move is to say that there is 'much common ground' between his views and Sarra's on Indigenous education. He also welcomes Sarra to the 'No Excuses' fold. In spite of this, even a cursory examination of Sarra's work would reveal that the emphasis in Sarra's work is entirely different from that of Pearson's. Pearson uses the slogan of 'No Excuses' to avoid explanations for the state of Indigenous Australia. Sarra though explicitly attacks the low expectations that have for so long dominated Indigenous education (Sarra, 2005).

Sarra indeed focuses primarily on white teachers while Pearson (2009a, p.84) consistently targets Indigenous Australians and demands 'welfare reform' i.e. cuts in welfare.

It is not surprising then that Pearson soon moves from these sympathetic remarks to an explicit attack on Sarra. Firstly, he claims that Sarra (Pearson, 2009a, p.85) makes 'race the basis of pride and self-esteem and seeks to promote 'Aboriginal racial pride'. Pearson regards this as especially problematic in public education. He worries where this will all end. He then gives voice to a nightmare world and wonders aloud:

While the public promotion of Aboriginal racial pride might seem on its surface unexceptionable, indeed laudable, consider whether the public promotion of English or Anglo-Saxon, Greek, Arabic or Japanese racial pride, would be well advised – even in an all-Anglo school, in the case of Anglo-Saxon pride (Pearson, 2009a, p.85).

Pearson (2009a) also seems to think that Sarra's methodology is simply a matter of promoting pride. It is this emphasis, that he feels can sow the illusion that pride is sufficient, whereas for Pearson what matters is 'effort and achievement' (Pearson, 2009a, p.86).

There are several things to be said here, Sarra has not used the term 'race'. His work would suggest that he believes there is only one race and that is the human race. He does of course acknowledge explicitly that this core humanity is subject to complex mediations (Sarra, 2005). Pearson then typically refuses to acknowledge that the Australian public school system has been the site of the denigration, often explicit, of the First Australians. Why should it not become the site where these wrongs are addressed? Besides what is the problem with Greek, Arabic and Japanese pride being supported in a multicultural society? Certainly Australia's Muslims could do with some explicit sympathy.

What though of Anglo-Saxon pride? This is where Pearson's naivety almost beggars comprehension. Anglo-Saxon pride has been promoted for over two hundred years in Australian schools. Just because it talks of being 'fair dinkum' doesn't disguise its origins or

trajectory. Has Pearson never heard of the ‘discovery of Australia’ by the gallant white explorers? Has he never heard of the citizen test that his good friend Former Prime Minister John Howard promoted with the central characters of Don Bradman and the Anzac legend of Simpson and his donkey? Has he never wondered where the idea for a ‘White Australia’ policy came from?

What is more, is it true that Sarra’s methodology runs the risk of promoting illusions amongst First Australian children, as Pearson (2009a, p.86) clearly suggests? Once more the problem seems to be that Pearson is not very well informed about that which he is criticising. Sarra has never argued that pride or self-esteem is sufficient. He has repeatedly emphasised that Indigenous children need to become smart to be able to mix it in academic terms with the best.

There is another aspect of Sarra’s pedagogy which Pearson overlooks. He fails to factor in the effect on the white teachers who commit themselves to the Strong and Smart philosophy and in so doing turn their back on the heritage of low expectations. Pearson (2009a, p.74) professes a strong interest in dialectics, yet his analysis of Sarra’s work is curiously non-dialectical. Maybe he should look up Marx’s Third Thesis on Feuerbach!

As well Pearson needs to visit some of the Strong and Smart schools, to see that his criticisms of Sarra’s approach are quite baseless. In this case once more, as with Freire’s pedagogy, Pearson does not ‘get it’, however, he does get ‘Ziggy’ and his drills and that must be our comfort.

Pearson’s Manifesto or They say...We say

Pearson’s (2009a) critique of the ‘middle-class Left (black and white)’ reaches a crescendo on pp.98-99. There he uses the ‘they say we say’ formula to outline what he thinks is the problem and what the alternative solutions should be. The populist format here prevents proper analysis of the issues; however, the choice is Pearson’s, so let us stick with that. Firstly I really do not know who ‘they’ are, or how many of them or how influential they are. However, there does seem to be a ‘they’ and ‘they’ seem to be a really bad bunch. What do ‘they’ say?

Their first crime is to argue apparently that substance abuse is a ‘health’ issue which should be approached with tolerance. There seems to be a slippage in Pearson’s thought here from ‘tolerance’ to ‘tolerated’. Here he wants to ‘rebuild intolerance’ (Pearson, 2009a, p.98). To argue that substance abuse is a health issue does not of course mean that one thinks it can be tolerated. It simply means that one lays aside one’s moral prejudices and attempts to address the problem and cure it, just like one would with any other pathology. Just because Pearson’s zero tolerance approach sounds tough, does not make it effective. Pearson should consult the

literature here. He could do worse than to begin with Fuentes (2011), especially Chapter Eight (pp.179-199).

From this Pearson returns to a favourite *bête noire* – culturally appropriate education. I agree entirely with his point in this case that the slogan of cultural appropriateness should not be used as a cover for providing First Australian children with an inferior education. Nonetheless, I would still argue that Indigenous culture has a place in the classroom – even in the classrooms of the private schools. Then again in the absence of any empirical data it is impossible to say how great the problem of ‘culturally appropriate education’ is or has been.

Pearson has warmed to his task now and he moves on to a quite dazzling display of ignorance and middle class prejudice. It seems that the dreaded ‘they’ now say we should ‘respect Aboriginal English as a real language’ (Pearson, 2009a, p.89). Pause for shock - horror response and a heart-felt ‘how could they?’

There are several points that have to be made here. On page 70 Pearson (2009a) defends First Australian languages and calls for government intervention to prevent their demise. I support that call fully. Yet everything that Pearson says about First Australian languages could be said about the dialect known as ‘Aboriginal English’. Pearson would do well to ponder here the old saying that a language is a dialect with an army and a navy. There is nothing wrong with First Australian English. The boundaries between a dialect and a language are very fluid and not as clearly marked as Pearson thinks. Still Pearson will have none of this. He wants us all to speak the ‘Queen’s English’ (Pearson, 2009a, p.99). Menzies thou shouldest be living at this hour.

However this is all egregious nonsense. Thankfully the days are past when Australians felt that to be proper one should talk like the Windsor family. There are no scientific or moral grounds for denying that First Australian English is worthy of the respect due to all dialects. Nevertheless for purely pragmatic reasons alone one should teach standard Australian English in our schools.

If Pearson has been nonsensical about First Australian English, he now crosses the boundary line into the inexcusable. He indicts the ‘they’ of saying that First Australians ‘need to be defended in a hostile criminal justice system’ (Pearson, 2009a, p.99). Three quick points here; firstly everyone has the right to be defended in the criminal justice system: everyone. Secondly, the empirical data proves that to be a First Australian is to guarantee unequal and unfair treatment in the Australian justice system (Harding, 1995; Loh and Ferrante, 2005). Thirdly Pearson’s demand of ‘more policing’ ignores the history and the ongoing nature of the relationship between First Australians and the police and detracts attention from a discussion of the kind of policing that is needed.

Next we have a return to the nonsensical. The 'they' are arraigned for saying First Australians are victims and not to be 'blamed'. Pearson wants to make a distinction here between 'victims' and victimised. He rejects the label victims while accepting the notion that First Australians have been victimised. It is extremely difficult to work out what Pearson is attempting to say here. Why the scare quotes around the word 'blamed'? How can one be victimised and not a victim? Is he saying that Aborigines are not victims in that they retain agency? If so how is 'passivity the main problem' (Pearson, 2009a, p.99)?

This is followed by a somewhat clearer proclamation of the 'responsibilities' of First Australians. These are juxtaposed to 'rights' which are championed by the 'they'. In this case we have Pearson the dialectical or to be more accurate the dualist thinker at work. It is implied that the emphasis on rights is somehow wrong and it has obscured the need for responsibilities. Nevertheless one needs to reject such simplistic and crude juxta-positioning and instead proceed to determining the actual on the ground relationship between the duality of rights and responsibilities. When did the emphasis on First Australian rights become so great that they swamped the notion of responsibilities? It would be news to most First Australians, that they are undergoing a period where the notion of their rights has become dominant.

Pearson now moves onto the familiar territory of welfare. As always in his work this is preceded by the adjective of 'passive'. 'Passive welfare' is something of an expression of redundancy for the Right as welfare is always passive to them and is to be equated with dependency. The Right reject welfare and call for its replacement by 'workfare' (Brown, 2006; Gilbert, 2002; Piven, 2001). Pearson has long championed this neo-liberal approach to welfare and incessantly demanded welfare reform (Pearson, 2009b, pp.282-284). Indeed he has arguably been the conduit for neo-liberal thought into First Australian affairs.

This is certainly the most serious aspect of Pearson's work and deserves a fuller engagement than I can give it here. For the moment I will content myself with pointing out that no one on the Left calls for 'passive welfare'. Rather the Left advocates government intervention to secure full employment. But this strategy is blocked for Pearson and other 'economic rationalists' because they cling to the ideological category of the 'real economy', where the only 'real' job is one provided by the market. For the Right nothing must be allowed to interfere with market forces as they are the guarantee of our freedom (Hayek, 2007). Indeed it is because welfare interferes with market forces that the Right reject it. One would have expected that the spectacle of the captains of American industry and finance begging for and getting trillions of dollars of public money in 2008, would have given Pearson some occasion to re-think his ideological position on welfare and the supremacy of the market.

Let me be clear here, I deplore the current state where great numbers of my people are dependent on welfare. I agree moreover with Altman and Sanders (1991, p.222) when they say that 'escaping from dependence on welfare is a legitimate and important goal both for Aboriginal people and for Aboriginal affairs policy'. Though I also agree fully with the rider they attach 'just to have attained such dependence [on welfare] from the previous position of exclusion has been a major achievement of the last decades' (Altman and Sanders, 1991, p.222).

There is in spite of this no evidence anywhere in this essay that Pearson's faith in the market has been disturbed. Indeed his next point is that 'they' oppose 'economic development and wealth creation' on the grounds that these are opposed to Indigenous cultural identity. He gives of course no source or evidence for this claim. It is true that the Left generally are sceptical about phrases such as 'wealth creation', especially since we live in a world where the wealth created is grossly unevenly distributed (Buchanan, 2002).

The final point in Pearson's manifesto is a rejection of the claim that poverty is the main problem. For Pearson passivity is the stumbling block because it prevents First Australians from taking advantage of the opportunities to get out of poverty and also leads to the squandering of resources. There is of course no analysis of the passivity that Pearson talks about. He is not interested it would seem in going deep historically or wide geographically in search of an explanation (Farmer, 2004b). For him that would presumably lead to excuses. Besides there does not seem to be any need in Pearson's thought to seek for causes. One simply has to arise and become wealthy because opportunities are there and if the people choose not to take advantage of the opportunities well then one can always cut their welfare payments. On the other hand if Pearson were to turn to the much despised Paulo Freire he would find in his work a serious discussion of the problem of the fatalism of the poor and suggestions as to what might be done about it (Bee, 1980).

Conclusion

I have endeavoured to demonstrate in my critique of Pearson's Quarterly Essay (2009a), and those of the educational apparatus and academy that holds these views that their description is inadequate. More importantly, I sought to show that Pearson's interpretation of explanation as 'excuses' means that his work is fatally flawed. Without explanation one does not know how to proceed. Moreover I reject his total espousal of Direct Instruction as the one true method and I have called instead for a balanced approach to literacy education.

Nevertheless despite these strictures I repeat that I welcome the publication of Pearson's thoughts on education. It is a crucial domain if we First Australians are to be able to 'absent the ills that plague us'. It is then in a spirit of recognition of the importance of education that I continue in the next chapter to examine and engage in debates which I have termed the 'Education Wars'.

Chapter 6. The Education Wars

For the white man's papers I had given up my faith in the Great Spirit. For these same papers I had forgotten the healing in trees and brooks. On account of my mother's simple view of life, and my lack of any, I gave her up, also. I made no friends among the race of people I loathed. Like a slender tree, I had been uprooted from my mother, nature and God. I was shorn of my branches, which had waved in sympathy and love for home and friends. The natural coat of bark which had protected my oversensitive nature was scraped off to the very quick (Zitkala Ša, quoted in Enoch, 2002, p.127).

A Song of Hope

*Look up, my people,
The dawn is breaking
The world is waking
To a bright new day
When none defame us
No restriction tame us
Nor colour shame us
Nor sneer dismay.

Now brood no more
On the years behind you
The hope assigned you
Shall the past replace
When a juster justice
Grown wise and stronger
Points the bone no longer
At a darker race.

So long we waited
Bound and frustrated
Till hate be hated
And caste deposed
Now light shall guide us
No goal denied us
And all doors open
That long were closed.

See plain the promise
Dark freedom-lover!
Night's nearly over
And though long the climb
New rights will greet us
New mateship meet us
And joy complete us
In our new Dream Time.

To our fathers' fathers
The paid, the sorrow;
To our children's children
The glad tomorrow. (Oodgeroo Nunnuccal, 1992)*

Introduction

In this chapter I will continue the engagement with a number of recent texts that deal with First Australian matters, primarily from a Right wing, and what I term, a neo-assimilationist perspective. The chosen ground for most of these commentators is education. This is hardly surprising because as Buti (1999, p.24) has pointed out in his review of the policy of the removal of Indigenous children in Canada and Australia, education was at the 'very heart of the assimilation process'. In terms of education I will deal in particular with the views of Gary Johns of the Bennelong Society and Helen and Mark Hughes of the Centre for Independent Studies.

Indigenous Education in America

I would like to turn to the American educator Captain Richard Pratt (1892) and briefly discuss his views and his work at the Carlisle Indian School, which operated from 1879-1918. My purpose here is to seek a means of unpacking the policy of assimilation and the role of education within that process. Pratt is a useful place to begin, because firstly of his importance as an educator of Indigenous people. Secondly he was open and proudly frank about his views. He was a thorough racist and was proud of everything he did in accordance with those views. Additionally as Westcott (1991) points out his impact on Indigenous families was very great. Indeed classes of Indigenous American students at San Francisco University universally report that a member of their family had attended Pratt's school (Westcott, 1991, p.45). An additional motivation for analysing Pratt's approach is that he was also a universalist of the most absolute and uncompromising kind. In terms of Bhaskar's Concrete Universal he sought to eliminate the level of mediations, specifically his students' cultural and ethnic identities.

A good deal of Pratt's forthrightness can be found in his 1892 address. He begins this with the reference to the shocking quote 'A great general [Sheridan] has said that the only good Indian is a dead one' Pratt then went on to say that he agreed with Sheridan in the sense that 'all the Indian there is in the race should be dead. Kill the Indian in him, and save the man' (Pratt, 1892, n.p.).

This then was Pratt's mission and pedagogical program. To achieve his end he stamped out with total ruthlessness any trace of Indian culture. For him the Indian was a 'savage' and he had to be 'civilised'. He was also a relentless propagandist producing magazines which conducted an ideological campaign. As part of this he published before and after photographs (Picture 6.1 and Picture 6.2). These were designed to show that if the 'savage' was taken away from the harmful influences of the reservation he could become 'English-speaking and civilized' (Pratt, 1892).

Picture 6.1: Before: Three Lakota Boys on entering Carlisle Indian School



Source: PBS Home http://www.pbs.org/weta/thewest/resources/archives/seven/w67i_3pos.htm)

Picture 6.2: After: The same three Lakota boys begin the process of being ‘civilized’.



Source: PBS Home: http://www.pbs.org/weta/thewest/resources/archives/seven/w67i_3pos.htm)

Many of Pratt's students interiorised his views of Indian culture and manners and language. Adams (1995) gives us of the following letter that Pratt got from a student in 1881. She wrote:

Dear Sir Capt. Pratt

I write this letter with much sorrow to tell you that I have spoken one Indian word. I will tell you how it happened: yesterday evening in the dining-hall Alice Wynn talked to me in Sioux, and before I knew what I was saying I found that I had spoken one word, and I felt so sorry that I could not eat my supper, and I could not forget that Indian word, and while I was sitting at the table the tears rolled down my cheeks. I tried very hard to speak only English.

Nellie Robertson (quoted in Adams, 1995, pp.140-141).

Adams (1995, p.141) tells us how with 'characteristic sensitivity', Pratt was to publish Nellie's letter in the school newspaper. He did so no doubt because it marked the site of his triumph over all the mediations that made up the concrete universal that was the essence of Nellie's being.

The tragedy of Nellie's attitude towards her native tongue was brought home to me most forcibly, when, at a recent seminar, I listened to my Auntie Renata talk of the importance of her language. In my methodology chapter I explained how language existed on the level of mediations and was thus a crucial part of what defined us as human. Auntie Renata spoke of how lost she felt because there was no one to speak language to. Language here represents the site of resistance of my people to colonialism. Sadly, Nellie's attitude represents the total triumph of the colonialist imperative.

This is also how a former student and star on the Carlisle gridiron football team, Gaddy, saw his education:

I am getting along fine since I left Carlisle. I can never regret going to Carlisle. The period of time I spented [sic] at Carlisle has enabled me to start out in the world and I am making the best of it I can. I am interested in the school, because it is not only civilizing the redmen, but is developing him physically as well as moral and ennabled [sic] him to become a true citizen of America. I am also interested in the Famous Indian Football team. Glad to know they done so fine, and my wishes are always for Carlisle (quoted in Adams, 2001, p.50).

Gaddy and Robertson represent examples of students who had interiorised the racist sentiments of their white teachers. Then again, as Adams (1995) points out, also involved was the process of accommodation where the Indians attempted a 'pragmatic strategy of cultural adaptation'.

This led the great Chiefs, Geronimo of the Chiricahua Apache and Joseph of the Nez Percé, to visit Carlisle School and publicly endorse Pratt's work (Adams, 1995, pp.248-249).

Nevertheless leaders of the Indian people were deeply divided over the schools (Adams, 1995, p.240). Likewise the writer Zitkala-Ša, who was a teacher at Carlisle, articulated strong opposition to Pratt's views (Enoch, 2002). This is how she described the ritual hair cutting that Pratt insisted all his students be subjected to:

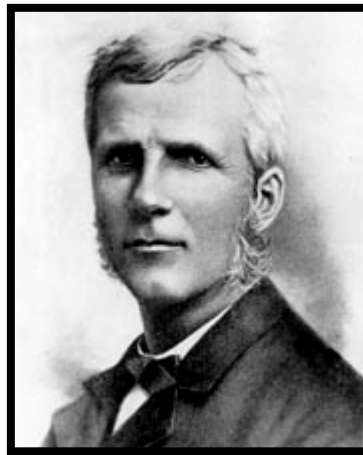
I remember being dragged out [from her hiding place], though I resisted by kicking and scratching wildly. In spite of myself, I was carried downstairs and tied fast in a chair.

I cried aloud, shaking my head all the while until I felt the cold blades of the scissors against my neck, and heard them gnaw off one of my thick braids. Then I lost my spirit. Since the day I was taken from my mother I had suffered extreme indignities. People had stared at me. I had been tossed about in the air like a wooden puppet. And now my long hair was shingled like a coward's! In my anguish I moaned for my mother, but no one came to comfort me. Not a soul reasoned quietly with me, as my own mother used to do; for now I was only one of many little animals driven by a herder (Zitkala-Ša, quoted in Enoch, 2002, p.127).

Zitkala-Ša remained a committed critic of Pratt's approach. To her mind his system claimed to offer civilisation but in reality what was on offer a 'long-lasting death [that] lies beneath this semblance of civilisation' (quoted in Enoch, 2002, p.134). Although it is important to acknowledge in this context that she advocated the learning of English, and was pro-education even to the extent of petitioning the War Department in 1918, not to close Carlisle. For her learning English and becoming educated were to acquire tools of resistance (Totten, 2005, p.107). Zitkala was, nevertheless a committed critic of Pratt's work. She was though not the only critic. Pratt had a rival educator Samuel Chapman Armstrong (1839-1893).

The point of disagreement between Pratt and Armstrong was over the educability of the Indigenous American. Pratt, as we have seen, believed that the Indian could be educated if taken away from the baleful cultural influences of tribe, language and family. He intended, he said, to produce graduates who were treasonous towards their tribe but loyal to the nation (Pratt, 1892). He railed against those who he saw making his task difficult. In an uncanny anticipation of the attitudes held by A. O. Neville, which we discussed in Chapter Four, the chief villains here were missionaries who learned the Indigenous language and ethnologists who valued Indian culture.

Picture 6.3: Samuel Chapman Armstrong (1839-1893)



Source: Christian history time line: <http://www.christianhistorytimeline.com/DAILYF/2002/04/daily-04-01-2002.shtml>

Picture 6.4: Richard Henry Pratt (1840- 1924)



Source: Wapedia: [http://wapedia.mobi/en/Carlisle Indian Industrial School](http://wapedia.mobi/en/Carlisle_Indian_Industrial_School)

Armstrong by contrast viewed the Indian through the lens of Social Darwinism. For him the Indian were ‘grown up children’ from an inferior race and therefore one could not hope for a great deal in their education (Fear-Segal, 1999, p.330). In an anticipation of what was termed the ‘native-mind hypothesis’ that dominated educational thinking in Queensland (Sarra, 2007) Armstrong believed that his Indian students could not compete intellectually with non-Indigenous students because they lacked a ‘well-balanced mind’ which he argued took generations to evolve (quoted in Fear-Segal, 2001, p.333). Ironically Armstrong’s Social Darwinism meant that he was much more tolerant of his students’ culture. What is more, whereas Pratt discouraged his students from returning to the reservations, Armstrong thought that a good thing (Fear-Segal, 1999, p.335).

The differences between Armstrong and Pratt can be explained in terms of Bhaskar’s figure of the Concrete Universal. Armstrong lacked a notion of our common core humanity. For him the

notion of race was real and he was of the superior race and his Indian students belonged to the inferior one. Moreover he was sceptical about the possibility of their ever catching up. By contrast, Pratt did have a clear notion of our common core humanity. For him the level that had to be absented was that of mediations. This level got in the way of the production of the individual who would be an industrious loyal citizen.

Fear-Segal argues that Pratt's views were to become unfashionable in his own life time and that the racial views of Armstrong, were to carry the day and indeed to shape the curriculum of Indians schools (Fear-Segal, 1999, pp.336-338). Carlisle School too was to fall under the sway of Armstrong's ideas and Pratt was forced into retirement in 1904 (Fear-Segal, 1999, p.337). The appointment of the artist and art-teacher Angel de Cora in 1906, when she insisted on her program of the development of Indian art, was another indication of Pratt's eclipse. De Cora was convinced that Indians had inherent artistic talent, that Indian art was of value and that it occupied a unique place in American art (Gere, 2004, p.649). This sympathetic attitude towards Indian art, which de Cora brought to her teaching, meant that the school could participate in the burgeoning trade in Indian art (Gere, 2004, p.651).

Paula Shaw's (2009) *Seven Seasons in Aurukun: My unforgettable time at a remote Aboriginal school*

This may seem a strange choice of text for this thesis, but it was a best seller and it does articulate a particular and a persistent way of recognising Indigenous Australia and it does tell of an encounter between Non-Indigenous and Indigenous Australians on the crucial terrain of education.

The first task with this book is I believe to decide how to respond to it. This is by no means an easy task. If one turns for guidance to the online reviews by teachers at:

<http://www.allenandunwin.com/uploads/BookPdf/TeachersReview/9781741757071.pdf>, one finds that they are generally positive and even fulsome. A common theme in these reviews is that this is a must-read text for those who will teach First Australians. This is echoed by as one reviewer put it:

Seven Seasons in Aurukun is a must-read for teachers, those committed to improving the state of Indigenous education in Australia, and for anyone who is interested in understanding the complexities of life in remote Australia (Mills cited in Yarrow, 2009).

Yarrow adds for good measure here:

And I would add to the compulsory readership, those policy makers responsible for Indigenous communities (Yarrow, 2009).

Moreover for a time Education Queensland's official website endorsed the book. However, I cannot find myself supporting these recommendations. Of course I would not censor the text in any way but I have serious doubts about its value as a text for those who are to teach First Australians. To begin with, there is the question of the genre that the book belongs to. Classifying it is a difficult task. It has been marketed as non-fiction, but the style is very much that of the romantic exotic novel. There is little that is expository about this text. Throughout it is presented as a first person narrative and with only exceptional moments the tense is that of the present.

Arguably the book is better treated as an exercise in fiction with its major accomplishment being the creation of a character known variously as Paula or Miss Paula or Frances. The book is formally a chronicle of the ventures and dalliances of Paula. One's enjoyment of the book then depends largely on the extent to which one is able to identify or sympathise with the central character Paula. I would not claim to have been always successful in that respect.

It aims also to provide us with a sense of place and it is here that the writing takes on something of the qualities of travel writing or accounts of life in exotic parts of the world. We are hit with a veritable tsunami of detail about Paula in Aurukun – everything from the dogs, to the heat, to the blood, to the vomit, to the head lice, to the dog farting in the car. One longs to cry out 'Too Much Information', so relentless is Shaw in her determination to fix the place in our minds.

More significantly what emerges from this on a very worrying level is the notion that as, Professor Sutton also put it recently, Aurukun is a hell (Sutton, 2009). I cannot think that such a mindset is a useful preparation for teaching First Australians anywhere.

These doubts are strengthened by the realisation of the absences in the book. As it is cast relentlessly in the present, there can be little resort to the past. Yet as the medical Anthropologist Paul Farmer (2004) has demonstrated, to understand a complex phenomenon such as Aurukun, one must go deep historically and wide geographically. Shaw appears blissfully unburdened by any such imperative, thus her chronicle has almost no history and the place itself is treated as a kind of prison where one serves a 'minimum sentence' if one is lucky (Shaw, 2009, p.236).

The point I am seeking to make can perhaps be rendered clearer by a comparison between two texts - Chapter Two of Shaw's memoir and the Sidney W. Mintz lecture delivered by Dr. Paul Farmer. Firstly the similarities: like Paula, Farmer begins his lecture with a present tense narrative. There is also the same vivid sense of place. In Farmer's case this is the free clinic that he runs in Haiti. There we meet one of his patients, Anite. The encounter is dramatic and also traumatic. I will quote at length here to give some flavour of the writing and the narratological and literary nature of the methodology.

A young woman takes my arm in a common enough gesture in rural Haiti. 'Look at this, doctor'. She lifts a left breast mass. The tumour is not at all like the ones I was taught to search for during my medical training in Boston. This lesion started as an occult lump perhaps but by this September day has almost completely replaced the normal breast. It is a 'fungating mass', in medical jargon, and clear yellow fluid weeps down the front of a light-blue dress. Flies are drawn to the diseased tissue, and the woman waves them away mechanically. On either side of her, a man and a woman help her with this task, but they are not kin, simply other patients waiting in the line (Farmer, 2004b, p.306).

If we turn now to Shaw's book, Chapter two we find a description of an encounter in the first days of her time at Aurukun, with a 9 year old student named Shauntai. The chapter is titled 'Ugly face fuckin' arsehole slut' (Shaw, 2009, p.17).

Shauntai asks to go to the toilet but permission is refused as another student has left the room and only one student is allowed out at a time.

This then happens:

'You an ugly face bitch,' she says very clearly. Now the whole class is much more interested in how this is playing out than in anything in the storybook. They are all unusually quiet.

'Shauntai, don't swear at me. You can go to the toilet when Ashley comes back.'

She is staring, and I'm starting to get really hot. I can feel my heart in my ears, and I'm clenching my jaw in between trying to ask the class questions about the story.

Her eyes, their whites glowing wild against her shining black skin. Her staring is boring holes right into my guts....

'You an ugly face fucking arsehole.'

‘Do you want to walk away cool down, Shauntai?’

‘No, Miss, I wanna go to the fucking toilet!’

‘Well, Shauntai, I’m letting you go. Just leave now!’ I’ve lost any of my pretend calm. All the kids can now see that I am genuinely pissed off. I know I’ve been sarcastic and mean in my tone and that if she doesn’t leave I’m going to want to hit her.

‘Ugly face fucking’ asshole slut!’ she says dark and deliberate, daring me. (Shaw, 2009, p.17)

I think it is fair to say that both incidents have been chosen for their shock value. But there the resemblance ends. Farmer clearly introduces us to Anite because he wishes us to sympathise with her suffering. By contrast one gets the distinct impression that Shaw writes about Shauntai to get us to sympathise with Shaw. In any case Farmer follows his account of the meeting with Anite with an attempt to situate her in historical and geographical terms and he also concentrates on her poverty, ethnicity and gender (Farmer, 2004b). At the end of his lecture we have a clear impression that Anite is the victim of what the liberation theologians call ‘structural violence’ and that ending this is the solution to preventing suffering such as has been visited on Anite. (Farmer, 2004b, p.306)

There is then a way out of the hell that Farmer describes. Social justice could prevent much of the suffering in Haiti. Nonetheless while it is most unlikely that this path will be taken in today’s world, there is still hope. On the other hand Shaw provides no such explanation for Shauntai’s conduct, not does she ever indicate the possibility of an alternative. At the end of her narrative there is no hope. Aurukun is hell *tout court*.

I am aware, in this instance that by endorsing Farmer’s approach, to what might be termed the micro-historical, I am endorsing an approach to education that seeks to combine an emphasis on the local, the particular and the individual, with a meta-narrative in an endeavour to achieve explanatory adequacy. In Farmer’s case the meta-narrative would appear to be a variation of Andre Gunder Frank’s (1969) underdevelopment of development thesis with the addition of the moral category of structural violence (Farmer, 2004b, p.307).

In endorsing the necessity of a meta-narrative, I am rejecting the criticisms of postmodernist scholars such as Sigurdur Magnusson (2003). For the latter metanarratives exercise a ‘stifling presence’ on research (Magnusson, 2003, p.721). However Magnusson would seem to reduce all metanarratives to the instance of modernisation theory and to believe that the difference

between metanarratives is merely a matter of naming (Magnusson, 2003, p.717). Yet Frank and Farmer's work is nothing if not a hostile and sustained criticism of the modernisation thesis. Nor is there anything 'stifling' about Farmer's attempt to understand why the dying Anite had to walk past private hospital after private hospital, as she could not afford the treatment schedule. Haiti, as we have seen lately may well be a hell, but we need to understand how it got there if we are to contribute to the emancipation of its people.

If we turn from Haiti to Shaw's characterisation of Aurukun as hell, as well as the sense of failure and doom that Shaw spreads over her character and her readers, then we have a truly depressing read. Even worse, when Shaw does depart from relating the chronicle of the Perils of Paula to ask some questions which might be of interest to First Australian educators, her contributions are far from inspiring. Thus when she meditates (Shaw, 2009, pp.217-218) on the purpose of education, she really cannot see any point to becoming literate in Aurukun. It would seem to Paula that to educate is to turn the child away from its community and to make it different. There is no sense of course that the community itself is capable of entering into the process of a positive becoming. Throughout Paula's chronicle, Aurukun is thought of exclusively in terms of its present tensed being, a being which is particularly degraded.

These difficulties are significant for me but they pale by comparison with Chapter Three. This consists of a single page as follows:

Roll Call

(to be read aloud)

Kalkeeyorta, Yunkaporta
Ngakyankwokka, Korkatain
Arkweeleram, Owokerum
Pambegan, Tamwoy, Bell
Ampebegan, Nampanum
Karyuka, Moodunuthi
Poonkameelia, Marpoondin
Keemeeta, Shortjor, Taisman
Pootchemunka, Peemugina
Ngallemetta, Kerindun
Kowerpta, Koongotema
Koonutta, Wlambeng
Tolkaikan, Tybingoompa
Koondumbin, Quinkin, Kepple
Kawangka, Koowarta, Ko'oil
Wikmunea, Wolmby, Woola

(Shaw, 2009, p.25).

There is a clue in the injunction 'read aloud'. This is in all probability designed to produce in us a sense of the impossibility. Clearly the intended audience here is White and they are invited to join Shaw in a slack jawed contemplation of the exotic otherness of the children of Aurukun.

The underlying provinciality of the white colonial settler mentality is on full display in this instance. There is no consciousness at all that Shaw, might be strange to the Wik people.

To be fair, there is one potentially redeeming moment in the book when Shaw almost gets it. She describes an end of term concert and her class is the final act. This is what happens:

The music starts, and in the special neon lights the orange strips magically glow, and as the kids move, the light dances. The crowd is wowed. Little kids squeal and so do grown-ups. The only thing glowing on the stage is the whites of the kids' eyes and their smiles. They are truly beaming. The simple steps, nearly in unison, make a moving pattern of orange swirls and when Bowie does his back flip, the light jumps (Shaw, 2009, pp.127-128).

Shaw has seen the beauty and wonder of the children of my people. This is the Other as Trace and it is to Shaw's credit that she can record it. Unfortunately, she does not build on this moment, and the children and the people of Aurukun soon return to being either the Feared or the Pitiable Other.

Besides when she ruminates on the problem of Indigenous Australian school attendance, she reveals in a very stark way that she has neither thought very deeply about the historical, social and political dimensions of this problem. Shaw is unfortunately not aware of the successful initiatives pioneered at Cherbourg by the Indigenous educator Dr. Chris Sarra, under the rubric of the Strong and Smart philosophy.

Picture 6.5: Chris Sarra



Source:

<http://images.google.com/imgres?imgurl=http://www.strongersmarter.qut.edu.au/profiles/images/chris-gallery/dr-chris-sarra-2010>

I may seem to be overly critical about a book that is a fairly light weight account of the activities curricular and extracurricular of a young teacher. The book was a best seller and there

is a real danger that it fits with the genre where the growing perception of Indigenous communities is, that they are places of torment and helplessness. This reinforces the attitude that whatever one tries to do will not work so one would be better to try nothing.

The task of judging the usefulness of this text as an educator demands that one recognise that throughout this chronicle, Aurukun is imagined in terms of something that happened to Paula. It becomes like the scar from the tropical ulcer. When we are offered the seeming alternative of how and what happened to Aurukun, we get this from her resignation letter:

I write that I have begun to feel hopeless about the work I am doing here, and that I feel like my students deserve better than I can offer them (Shaw, 2009, p.236).

This sense of hopelessness and guilt initially tempts one to join Paula in this fest of self-pity. But one must resist the temptation to indulge in these truly useless emotions. One must return instead to an insistence on the primacy of the task in hand – that of how to provide a quality education for the children of Aurukun. To achieve that one has to firstly put aside the book's principal ideological contribution - the prism of romanticism which would lead one to alternately see the people of Aurukun as the Pitiabile Other (e.g. Liam, who thinks J-A-M spells honey, pp.87-88); the Exotic / Erotic Other (e.g. Chapter 3) roll call where the pupils are listed and we are enjoined to read them aloud, her sister Tasha's 'admirers', (Shaw, 2009, pp.170-173) or the Feared Other (The description of Shauntai, p.20, the man with the axe, (Shaw, 2009, pp.176-177), the machete yielding man on the bus (Shaw, 2009, p.244)).

How then to see the children and the people of Aurukun? Part of the answer, to be even handed, is in the text itself. Thus we are given the school song written by the kids and the teacher.

At Aurukun School

All the kids are really cool
When you put us to the test
We will do our best
We are strong, we are proud
No quitters allowed
We will always win
Ngang kuchek waap minh.
[We are really smart]

(Shaw, 2009, p.241)

We are told how this song is performed with 'much enthusiasm' and that some of the younger boys in Paula's class join in (Shaw, 2009, p.241). But there is no analysis of the significance of

the song. As the text is determined to see the place of Aurukun as something beyond the horizon, there is no awareness of the Strong and Smart movement which began the imperative to write a school song which would seek to prevent the kids of Cherbourg from interiorising themselves as the Despised Other. Nor does Paula show any awareness of the other school songs which are being belted out with enthusiasm and yes, courage throughout the schools that belong to the Strong and Smart community. Nor because the text is rooted in the present tense, is there an attempt to link the emancipatory impulse of the song to similar movements, which for instance, once had to insist in the face of overwhelming racism that ‘Black is beautiful’.

To make my point absolutely clear here, let us turn to Sarra (2005) and what he writes about the Cherbourg song:

A school song was developed to create pride and unity in our school and most importantly, to give us all a time together in which *we all felt great*. All of the children know the song well and sing it with great enthusiasm. The lyrics to our school song are:

Jingle bells Jingle bells

Cherbourg School is here.

We’re young and black and deadly

So come and hear us cheer, hey!

Bring on every challenge

And put us to the test

We’re from Cherbourg State School

And you know we’re the best, Hey!

Whilst the lyrics make it special and purposeful, it is also made special by the fact that only children from Cherbourg State School can sing it because *it is our song*. The children of Cherbourg State School have power: it is our song, and it is about *us*. Whilst it is difficult to measure the impact of simply singing a school song, the extent of their enthusiasm to sing, the volume at which the song is sung, and the faces of the children when they sing the school song clearly suggest they do actually feel *young and black and deadly*; that they are indeed ready to face challenges and be *put to the test*; and further, at least at that point in their lives, they certainly feel like they are *the best* (Sarra, 2005, p.183).

From this account we can see that the Cherbourg song is an integral part of the drive to reinforce First Australian identity and to create solidarity among, students, staff and community.

What is lacking in Shaw's account of the Aurukun song is any awareness of the need for such a drive and the part that a song could play in it. Paula chooses instead to close her text with the following song written by her and the staff at her drunken farewell party:

On my twelfth day in Aurukun my contract gave to me

Twelve stolen cars
Eleven petrol sniffers
Ten sly grog parties
Nine 'Fuck you, arseholes'
Eight kinds at school
Seven dirty Kimbies,
Six smashed windows
Five plover-cunts
Four DVOs
Three sacred cows
Two dogs stuck together
And a tomahawk through my front door.

(Shaw, 2009, pp.246-247)

Again to be fair she describes this song as 'crass and cynical'. But she also insists that it is 'tragic and true' and she tells us how she vows to keep it and 'read it to remind [herself] that there are real reasons for [her] to leave this place' (Shaw, 2009, p.246).

Inexorably and inevitably perhaps the self-absorption and the guilt with which this text is so redolent have made way for the construction of Aurukun as the site of the Feared / Despised Other. This is ultimately what the Perils of Paula has done to Aurukun, and it is the central fault and weakness of this text that it allows for no other way of seeing.

One must resist the text strongly here and insist that if one contrasts the two songs, the school song encodes a more legitimate and yes, truer way of seeing the children of Aurukun. It is truer because it demonstrates that the children of Aurukun are the Other as Trace, the trace of that ultimate Other that some have called God.

Ultimately then, the verdict on this book despite its popularity and endorsements by teachers and experts must be that it is a deeply flawed text. This is not because it is a kind of history from below giving us the experiences of a junior female teacher. Whatever the merits the book does have are primarily due to this outsider status. Nor are its flaws due to its literariness. The work of the micro-historian Carlo Ginzburg has after all long established the value of the

literary in historical writing (Zambelli, 1985, p.484). Nor is it even the relentless minutiae that constitute the problem for as we saw in the methodology chapter, according to Aby Warburg 'God is in the detail' (quoted in Ginzburg, 1993, p.27). Additionally, it is the ability of the micro-historical approach to capture the lived texture of daily life that constitutes so much of its attractiveness and justification as a method. Rather it is the text's deeply rooted unawareness of how to escape from the prison of self-pity and self-absorption, and to seek instead explanation through a process of self-reflection that makes this book so irrelevant to the process of Indigenous education.

Gary Johns: 'Aboriginal Education Remote Schools and the Real Economy'

Picture 6.6: Gary Johns



Source: http://www.sourcewatch.org/index.php?title=Gary_Johns

This pamphlet was published in 2006 by the Menzies Centre. This particular think tank takes its name of course from Australia's longest serving Prime Minister, Robert Gordon Menzies, Knight of the Most Noble Order of the Thistle, Constable of Dover Castle and Warden of the Cinque Ports. Given Menzies' own documented support for Apartheid and also his conviction that coloured people were not capable of voting, one could be forgiven for hesitating over welcoming a publication on Indigenous Affairs coming from a source bearing his name (Limb, 1996).

Unfortunately, as it turns out one's worse fears are all too brutally realised. Johns who has cut his teeth as President of the Bennelong Society, is what we would describe as a 'wannabe Chief Protector'. He is massively interested in us, the Indigenous People of Australia – quite scarily so. He continues to write and preach prolifically about our shortcomings and like a good Chief Protector he has no end of solutions, including final ones, for us.

It is true that he appears to offer the hand of friendship and expresses concern about the plight of First Australians. Moreover conferences sponsored by his society contain always a sprinkling, one is tempted to say a fig-leaf, of First Australian speakers. However we First Australians have learned over the centuries to examine with great care the teeth of 'the White Gift Horse'. We have discovered all too clearly and dearly that it is one of the ironies about the linkage between language and power, that as soon as you are assigned a 'Protector', you should know you are in serious trouble.

Yet to be fair, one has to acknowledge that with Johns, there is at least the virtue of clarity. Pretensions are at a minimum. The boldness and arrogance of his views is on a parallel with those of Captain Pratt (See above). Thus in the abstract to his pamphlet, he lets it all hang out as it were. We are told Aboriginal children in remote schools are failing. The reasons for this failure lie outside the school. Here Johns trots out the favourite hate list of the New Right - welfare dependency, Indigenous Australian parents and their continued attachment to 'culture', plus liberal educators and do-gooders. There is the additional emphasis on the 'real economy' and a claim about the absence of a 'work ethic' in the communities. In this reply to Johns' polemic I will concentrate on advancing a defence of the study of Aboriginal Culture in schools. I will also examine the notion of a work ethic that Johns advances, and I will conclude by questioning his view of the market as the panacea for all problems.

To begin I will point out that Chris Sarra's experience as Principal of Cherbourg State School from 1998-2005, plus his travels throughout Australia, suggest strongly that Johns lets the schools off much too easily in his accounting of Indigenous failure. Moreover, Grace Sarra (2007) has established a simple examination of the archives is more than sufficient to prove beyond reasonable doubt that for most of its history, Cherbourg State School for example was part of a system - First Australian education, which was never designed to educate (Sarra, 2007).

Johns though, lists as explanation for the deplorable outcomes in Indigenous Australian education the following:

...the impact of broken homes, lower educational expectations among Aboriginal students, and lower levels of engagement with school, especially students' engagement with reading, the number of books available to students at home, absenteeism, unemployment, crowding and disruption within households (Johns, 2006, pp.9-10).

It is the purpose of Johns' pamphlet to add schooling to the above. In case anyone would think that the lack of resources is the cause of school failure he claims 'that many Aboriginal children

succeeded at school in earlier times under far less well-resourced conditions' (Johns, 2006, p.10).

Johns is very dishonest here. The history of Indigenous Australian education in this country is one of under resourcing (Fletcher, 1989). Nor did 'many' First Australian children succeed. There was no golden age. Far from it, Fletcher's history of Indigenous Australian education in NSW is one of virtually unmitigated racist policy and practice. Where First Australian children have succeeded in receiving an education, it has occurred, despite the system. Moreover, Chris Sarra (2005) has conclusively demonstrated that low expectations among the teachers have played a pivotal role in that failure.

My own experiences which I have related in Chapter Three would suggest that low expectations, fed by racist attitudes, have been crucial in determining the outcomes of Indigenous education. Of course, one cannot expect the head of the Bennelong Institute to acknowledge the elephant in the living room. So he does not discuss the impact of racism.

I proceed now to consider the alleged lack of a work ethic among First Australians.

The Work Ethic

We never, ever got our wages. It was banked for us. And when we were 21 we were supposed to get this money. We never got any of that money ever. And that's what I wonder: where could that money have went? Or why didn't we get it? (From Bringing Them Home, p.16, cited in Stanton, 1999.)

There is not a comprehensive study available around the question of the contribution of First Australian workers to Australia. Ann Curthoys and Clive Moore (1995, p.1) show, Australian historians have been 'markedly unsuccessful in informing Australians, Indigenous and non-Indigenous, of the history of Aboriginal and Torres Strait Islanders labour'.

The studies that have been undertaken document a pattern of an exploited workforce, especially in the pastoral industry (Berndt and Berndt, 1987; Curthoys and Moore, 1995; Robinson, 2002; Wade-Marshall and Loveday, 1985). The evidence around does suggest that Johns' accusation that First Australians lack a work ethic is quite simply an untrue slander. Rather the truth tells of the exploitation of black labour for poor or even non-existent wages. Here the European employer set the pattern very early. I quote from Grace Sarra's examination of the historical records concerning Cherbourg in her doctoral thesis:

It is May 1896 Dr. Walter Roth, newly appointed Chief Protector of Aborigines has left Brisbane at 8.00am. He tells us he arrives in Murgon later that day at 8.10 pm.

The next day he heads for the Aboriginal Settlement. On the road he meets a group of Aborigines. We are told [by Roth] they were:

...a native named 'Bob', and a half-caste [sic] named 'August King' and his wife, known formerly as 'Ruby Wall', on their way to the settlement. 'Ruby Wall' was sent to the settlement on the Minister's Order, and by Section 9 of the 1905 regulation she must not leave the Settlement without the Minister's permission in writing. 'Bob' said he had been working on Mr. Tronson's Selection falling scrub, and gave me the names of eight others there... 'King' said he had been working on the selection, helping to build a house and a barn, and was then making a pig sty. He said he had been there for about three months, but had not yet received any payment (Roth, 1906:1, quoted in Sarra, 2007).

One would hope that Johns would agree that the problem here was not the absence of a work ethic among the First Australians that Roth encountered, but rather the absence of a notion of obligation on behalf of the employers towards the employee. The ethic that is lacking is the 'pay-up ethic'. Kay Saunders (1995, p.141) in her very interesting study of the use of First Australian labour during the World War II emergency shows that where the Army used First Australian Labour and paid them, there was resistance from traditional pastoral employers and white officials because this would affect the normal rate of exploitation of First Australian labour. Saunders (1995, p.141) also documents the extensive contribution that First Australian labour made to the war effort across a wide range of rural industries. What is more, she also establishes that the Torres Strait Islanders were paid less than white workers, but more than Aboriginal workers (Saunders, 1995, p.140).

A similar picture of exploitation and injustice emerges from Shirleene Robinson's (2002) account of First Australian child labourers in Queensland from 1842-1902. Typical here is the case of Dolly, 13 years old, seven months pregnant and possessing only two pieces of clothing after having worked as an unpaid domestic in Normanton from the age of three years (Robinson, 2002, p.1). Robinson's (2002, p.12) conclusion that the status of the child workers resembled that of slavery seems more than justified.

Perhaps it is Johns' attitude towards the Stockman's award of 1966 that proves conclusively he knows nothing about the work ethic of First Australians.

Stockman's Award of 1966

The Arbitration Commission decided following the strike of the Gurundji Stockmen that Aboriginal Stockmen should receive equal wages with white employers. This decision came into effect on the 1st December 1968. It should have been a great moment for Australia, when on history's page we did genuinely advance. Instead the decision turned out to be a disaster. John Avery at the 2005 Bennelong Society conference commented that:

Aboriginal employment in remote areas collapsed after the award of equal wages to Aboriginal stock workers in 1966 (Avery (2005).

Although Avery's careful avoidance of agency in this sentence is understandable, within the context of a Bennelong Society Conference, as a descriptive and ethical statement it will simply not do. As Marcia Langton and others have shown, the employers reacted not by acknowledging the need for a fair wage for a fair's day's work, but by driving the Aborigines off the stations, despite the ancient connection between the First Australians to their land (Langton, 2002). For the pastoralists it was seemingly either the right to exploit or nothing. But the pastoralists were not the only forces pitted against First Australians. As Langton points out:

The State governments remained intransigent with respect to Aboriginal citizenship rights, other than the right to vote, and when Aboriginal people became eligible for equal wages, the employers rejected Aboriginal labour and the State apparatus that had indentured Aboriginal people as rural labourers began to reduce the numbers of people on 'training' wages, causing a sharp increase in poverty and distress throughout the rural Aboriginal populations. These events, in turn, forced Aboriginal people to attempt to obtain access to social security payments, such as the unemployment benefit. The federal government responded in the mid-1970s to the massive demand from Aboriginal people for access to social security entitlements by devising a work-for-the-dole scheme for Aboriginal communities in rural and remote areas (Langton, 2002, p.6).

Stolen Wages

No discussion of the question of the work ethic of First Australian people would be complete without a reference to the Stolen Wages. The historical records again, show that from 1904 to 1987, the Queensland Government withheld or underpaid wages earned by First Australian workers. It is important to note that everyone accepts this as fact (Burrows, 2007; Kidd, 2006; Rintoul, 2006, p.24). It is also worth noting that the Bennelong Society has yet to hold a conference around this deep and racially motivated injustice. To date the Queensland State

Government has offered a settlement totalling \$55 million, only a fraction of the stolen wages. As Burrows (2007) points out, this amounts to a 'churlish \$2000-\$4,000 per person'.

Throughout his pamphlet Johns stresses the need for what he perceives as privileges to be withdrawn from First Australians. He is seemingly for equality for all Australians. Yet as Burrows (2007) correctly points out, the State Government has demanded that the recipients of the paltry sums sign an undertaking, not to take any action against the government over the racist official policies of the period. She adds 'No government would ever ask a white person to make such a suppressive agreement' (Burrows, 2007). Johns may preach about equality and demand that First Australian people renounce that which makes them different, but the continued refusal of the Queensland Government to fully compensate for the Stolen Wages, proves that some continue to be more equal than others.

Culture

There is no informed discussion of First Australian culture in Johns' polemic. He mentions in passing, as it were, attendance at funerals, language and fishing. He supplies an offensive aside from Pastor Albrecht to the effect that First Australians have gone from believing in the cargo cult, to seeing welfare in the same terms. Likewise, there is not even a suggestion that he begins to understand what 'culture' means for First Australians. He is quite simply incapable of grasping the centrality of culture to Indigenous Australian people. Nor does he seem capable of admitting that Indigenous Australian culture is based on the spirituality of our connection to the land. Johns is not alone in this of course.

What is most disturbing about Johns' polemics is how they have been virtually allowed to stand unanswered. An exception here, I am delighted to say, is Marcia Langton in her 2007 address to the Evatt Foundation. She wrote this about the production of Johns' pamphlet:

Gary Johns was invited by a previous federal Minister for Education to a meeting about Aboriginal education led by community members, and Aboriginal leaders. He has come away from that meeting and his principal recommendation in a public report that he wrote was that Aboriginal children be removed from their families. That meeting in the Northern Territory that he went to was typical of those meetings where leaders from communities join together in an effort to convince governments that it is necessary to build schools in Aboriginal communities. The key problem, as I think even our beloved Warren Snowdon from the Northern Territory has apparently recently discovered, after living there for 30 years, is that there are no high schools for Aboriginal children to attend except in the mining towns and the highway towns. There are no schools. The little schools that exist in

the remote communities are basically a one or two room affair. The Aboriginal teacher's aides are part-time. A teacher might travel around a group of communities once every two weeks dropping off workbooks and pencils. This is the kind of education that these children are receiving. And the answer from the genius Gary John's is to remove Aboriginal children from their families (Langton, 2007).

Langton's invective for once of late is fully justified. However, I doubt if Langton can fully comprehend that Johns is in the vanguard of the backlash against the advances Indigenous Australian people have made in recent decades. He is one of the leaders of the movement which Pat Dodson has described as follows:

But there are many in our country today who, although unable to understand the pain and the passion of our cruel past, have a view that the recent gains, the steps towards mateship, must be turned back. They are gathering stones, apportioning guilt and demanding a return to the past.

In recent weeks they have been prominent in our media condemning the housekeeping practices of the people of Doomadgee, condemning the alcoholic bingeing in our communities. They have bemoaned the waste of their taxpayer monies to prop up wasteful black bureaucracies. And they have condemned the United Nations for suggesting that the Government's *Native Title Amendment Act* is permeated with racist thinking.

Be warned that these are not just the ramblings of some second rate social commentators. There is a serious move afoot in this country, by very powerful forces at the highest level of government, business and society to return the position of Indigenous Australians to the situation that existed in Australia before the Wave Hill strike in 1966 (Dodson, 1999).

I endorse strongly Pat Dodson's remarks. It is incumbent on us to take on and defeat in debate those who while claiming to be our friends, are doing the work of our enemies. It is indeed my hope that this thesis will make such a contribution. But we must also refuse to be distracted from the struggle to build a generation of Strong and Smart First Australians. That will mean building pride in our culture and demanding its rightful place in the education system. It will also mean tackling problems like child abuse, domestic violence and the plagues of alcoholism and substance abuse. The experience of Chris Sarra (2005) at Cherbourg and my own lived experience as a health worker and an educationalist, have taught me that we can do this and that our greatest allies are our children. They can and they will be strong and smart.

Helen and Mark Hughes and the Centre for Independent Studies (CIS)

Picture 6.7: Helen Hughes



Source: <http://www.theaustralian.com.au/in-depth/aboriginal-australia/making-up-lost-times/story-e6frgd9f-1111115652696>

The CIS' right wing economist Helen Hughes began her coverage of Indigenous affairs with her *Lands of Shame* (2007). There she inveighed against the deprivation of First Australians that I documented in Chapter One. I share her anger at the non-well-being of Indigenous Australians and the refusal of State and Federal governments to address the problems promptly and sincerely. However, Hughes is a committed ideologue of the Right and that colours her views on the situation. For her as for Noel Pearson (2010) the solution to First Australians deprivation lies in the rigorous application of free market principles. This is apparently the magic bullet, which alone can "Close the Gap".

Neither Helen Hughes nor Pearson seems to be able to recognize that it is the function of markets to create rather than to close gaps. This can be seen all too clearly from the following statistics:

- In 1950, the ratio of the average Executive's pay check to the average worker's pay check was about 30 to 1. Since the year 2000, that ratio has exploded to between 300 - 500 to one.
- The bottom 50 percent of income earners in the United States, now collectively own less than 1 percent of the Nation's wealth.
- 83 percent of all U.S. stocks are in the hands of 1 percent of the people.
- 66 percent of the income growth between 2001 and 2007 went to the top 1% of all Americans (Synder, 2010).

One could go on and on about the gaps created by free-market policies. But none of this would likely effect ideologues such as Helen Hughes and Pearson. Predictably, it is those aspects of Indigenous Australians' culture which are not subject to market forces that evoke her and Pearson's anger. Thus for Hughes (and Pearson) the only relationship to the land which she will support is that mediated through the market. Communal ownership is therefore a no-no. Thus she claims that:

Communal ownership has tied up vast swathes of communally-held 'native title' land without any benefit to most of the euphemistically called 'owners' (quoted in Hughes and Hughes, 2007, p.185).

The use of scare quotes here is as offensive as it is significant.

In terms of the Bhaskarian figure of the Concrete Universal, Hughes refuses to deal with the layer of specific mediations. Thus she describes with scorn, all recognition of the specific mediations that mark Indigenous Australians' Identity as 'exceptionalism'. Like many liberals she and Pearson are anxious to go directly to the individual and to by pass any recognition of difference due to language or culture.

Following the publication of *Lands of Shame*, Helen and Mark Hughes (2008; 2009; 2010; 2010a; 2010b) have addressed in a series of monographs the issue of Indigenous Australian Education, primarily in the Northern Territory (NT), for the right wing think tank, the Centre for Independent Studies. What they document, as we will see in Chapter Eight, is what the Review of the Northern Territory Emergency response described as the 'collapse' of education in the Northern Territory. This has become particularly clear with the publication in 2008 of the national assessment plan for Literacy and Numeracy (NAPLAN) data. The NT is very much at the bottom of the pile in terms of literacy and numeracy.

We are dealing then, with what should be seen as a severe crisis. But, what should one do? Here Hughes' approach to Indigenous Australian education has been described by Colin Tatz (2008, p.92) as 'brutal' but also refreshing in its 'bluntness'. Something of these qualities can be seen in the following quotation:

Thirty years of welfare dependence, poor education, and crowded public housing have created family and social 'dysfunction' that includes appalling health, alcoholism, drug abuse, gambling, child pregnancies, and violence. These have contributed to low school attendance. But they are not the principal cause of poor attendance or dismal educational outcomes. The underlying reasons why children who have attended school regularly – when it has been open – cannot read and

write or count beyond 10 are substandard Aboriginal schools, special curriculums for Aboriginals, and poor teaching in Aboriginal schools (Hughes and Hughes, 2008, p.15).

There are some aspects of the argument here that need attention. Firstly, we have the obligatory neo-liberal attack on welfare. This is repeated with even more force in Hughes and Hughes (2007, p.16) where welfare is accused of creating a 'cargo cult welfare culture'. We are dealing with ideology in this instance. The problem is not welfare dependence but the lack of government initiatives to support the growth of economic alternatives to welfare, in other words the absence of job creation.

I also want to register an objection to the omnipresence of the word 'dysfunction'. No one doubts the 'dysfunctional' state of many Indigenous Australian communities (National Aboriginal Health Strategy 1989, Aboriginal and Torres Strait Islander Women's Task Force on Violence 2000). However, I should note here that I follow Raimond Gaita (2007, p.295) in using scare quotes around 'dysfunction'. His reasons are finely stated and I quote them in full:

I put 'dysfunction' in inverted commas because though its use is almost ubiquitous, it is devoid of even human, let alone humane, resonance. If responses to the humiliation, alienation, despair, cruelty and worse to which it refers are humane, then that must be despite its use rather than because of it (Gaita, 2007, p.295).

The third aspect of the Hughes' quote above which I strongly object to is their laying all the problems at the door of 'special curriculums for Aboriginals' (Hughes and Hughes, 2008, p.5). By this they mean bilingual education. We will return to this point but for the moment I will endorse Tatz' (2008, p.93) comment that Hughes and Hughes' work is marked by an 'absence of history...contextual...and institutional... [and a] lack of context and memory'. Tatz (2008) points out that Hughes and Hughes specifically ignore that education for First Australian people in the NT is only 50 years old. He also points out clearly that most of those 50 years have been marked by what one can only describe as token gestures towards education. Quite simply looking at the facts that Tatz outlines, one can only conclude that the NT has seldom been serious about providing education for their Indigenous Australian citizens.

It is important to note Tatz' corrective to the Hughes' (2008, p 15) praise of the Missionary education system as there is indeed a myth accumulating around Missionary education as we have seen in Pearson's (2009) Quarterly essay. Tatz argues that the missionaries did teach literacy but not at all missions. Roper River Mission did educate the union activist Dexter Daniels, who fought alongside Vincent Linghari. But missions such as Oenpelli were bad in terms of education (Tatz, 2008, p.94).

I would add that the work of Hughes and Hughes as well as ignoring history and buying into the myths around Missionary education is also marked by a reliance on anecdote and largely unsupported rhetoric and where they do address the empirical data their conclusions are largely ideological. Two brief instances of this will have to suffice here.

Firstly they write:

The delay and confusion in introducing English teaching, literacy and numeracy... shows the inability of the northern Territory to implement evidence-based policy reform in the face of the opposition of a vocal minority (Hughes and Hughes, 2009, p.10).

There is no evidence produced to show that the presence of *properly funded* bilingual education programs would adversely affect Indigenous Australian children. Indeed as Simpson, Caffery and McConvell (2009) emphasise the evidence is to the contrary. Furthermore the history of First Australian and bilingual education, marked as it is by underfunding and general neglect (Tatz, 2008), is such that one cannot fairly draw the conclusions that Hughes and Hughes do.

My second example is chosen from Hughes and Hughes (2010, p.16). There in an all too standard attack on welfare, they inveigh against a ‘cargo cult welfare culture’ which is fostered by a ‘welfare and Human Rights lobby’. There is no sense of any awareness of just how patronising and offensive is the concept ‘cargo cult’ in this context, especially as welfare payments to remote First Australian communities date only from the Seventies (Rowse, 2007). Nor I suppose should one be shocked by the use here of the epithet ‘Human Rights’ as a pejorative term.

This polemic against welfare is finished in grand conspiratorial style. They write:

Working men and women also know something else not being told to welfare communities: education and a job are more interesting and rewarding than a ‘one way journey to idle misery’ on welfare (Hughes and Hughes, 2010, p.16).

The allegation here that someone, presumably the ‘welfare lobby’ is deliberately keeping welfare recipients in the dark is frankly ludicrous, just as the assumption that welfare recipients do not know that jobs are better than the dole is an insult. Moreover, if one looks up the reference to a footnote one finds that it is to an editorial from *The Australian*. The methodology is very transparent. The Right quote each other in an orgy of mutual back scratching and slapping. This has reached a crescendo in Pearson 2010 where he writes in celebration of the contribution of neo-liberalism to ‘Indigenous Australian policy’ (sic):

Two contributions have been salient. First, the decision to take the predicament of Indigenous Australians seriously and to bring to bear the intellectual weight of the Centre for Independent Studies... was crucial. Second the contribution of *The Australian* has matched the intellectual ballast provided by the CIS (Pearson, 2010).

The quality of the 'intellectual weight' provided by Hughes and Hughes becomes glaringly questionable when one examines how they deal with those who oppose them. Their principal theoretical opponents or *bêtes noires* would appear to be the late Nugget Coombs and ANU's Professor Jon Altman. As Tim Rowse (2007) points out in his review of Hughes *Land of Shame*, she attributes extraordinary power to Coombs when she alleges:

The Coombs' experiment moved Aborigines to remote regions that had required vast areas and constant mobility for bare hunter-gatherer existence (Hughes, 2007, p.70).

What Hughes cannot admit here is that the decision to move to outstations was taken by First Australian people themselves.

Moreover in their anxiety to discredit Altman and the Outstation movement, Hughes and Hughes neglect to deal seriously with the literature. Thus Altman's (2009) claims that:

During the past 30 years, a growing body of research has indicated that life at outstations is better in health outcomes, livelihood options, and social cohesion, despite neglect.

Alyson Wright (2009) too provides a useful review of the literature and it does indeed support Altman's viewpoint. Typical here is Kevin Rowley et al's (2008) study of the health outcomes at the Utopia outstation. They compared incidence of cardio-vascular disease within the outstation community to that of First Australian people living in large towns. Rowley et al (2008) found that the First Australian people at the outstation were healthier than those First Australian people who were still living in a centralised situation. They also pointed out that the improved health outcomes for the people on the outstation represented a saving for the state. Their conclusions are that:

Conventional measures of employment, income, housing and education did not account for this health differential. The factors associated with the particularly good outcomes here are likely to include outstation living, with its attendant benefits for physical activity and diet and limited access to alcohol, as well as

social factors, including connectedness to culture, family and land, and opportunities for self-determination.... A stereotype of outstation communities as cultural museums that prevent health and social gains for Aboriginal people is not supported by the present evidence, nor is forcible imposition of interventions on communities and the removal of freehold land title from Aboriginal ownership (Rowley et al, 2008, n.p.).

One would have hoped that the evidence put forward by Rowley and others would at least be engaged with by Hughes and Hughes and the media, against First Australian and Torres Strait Islander people. Moreover, the current climate of opinion as I have stated in Chapter One is very much against any policies which can be seen to attempt to stem the tide of neo-assimilationism. Nor is the situation any better in the field of education.

Jane Simpson et al (2009) begin their very critical review of bilingual education policy in the NT with a defence of the concept of bilingual education. Their article is a response to the 2008 NT Decision to abolish bilingual education and instead insisting on the use of instruction through English for the first four hours of the school day. They argue persuasively that the empirical evidence shows children learn best when taught through their mother tongue. They also maintain that the evidence shows that bilingualism has many social and cognitive benefits.

At the core of Simpson et al's case (2009) is the belief in three rights. These are: the right to an appropriate education, the right for communities to have a say in how their children are educated, and the right to maintain First Australian languages (Simpson et al, 2009, pp.10-15). These are eminently second and third generation rights; as such they are anathema to neo-liberal thinking. Perhaps this also explains the lack of any consultation or dialogue with Aboriginal and Torres Strait Islander people in the work of Hughes and Hughes. They do endorse the views of Noel Pearson, just as he does theirs. But other First Australian leaders are dismissed, especially in Hughes (2007) as corrupt 'big men'. Nicole Watson (2007) labels this lack of consultation as immoral. Rowse (2007) points out the contradiction in Helen Hughes' thought here. As a neo-liberal she ought to be praising those First Australian leaders who have made good within the neo-liberal system. Are they not after all displaying initiative based on self-interest, or are flash cars and big houses only for Non-Indigenous big men?

So dominant is the neo-liberal mode of thought that, as Simpson et al (2009, p.36) point out, some have abandoned a 'belief in the importance of rigorous adherence to standards of Human Rights'. In the next two chapters I endeavour to show just how this anti-rights discourse arose.

Chapter 7. Human Rights and the Aboriginal People of Australia

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for Human Rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people..

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental Human Rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of Human Rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF Human Rights *as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*

(United Nations Declaration of Human Rights (UNDHR), 1948).

This chapter addresses some of the key theoretical and political issues associated with the notion of Human Rights. It provides the International and Australian perspectives and I seek here to argue for the importance of Human Rights and to give an account of how they might be grounded in a notion of human worth.

The Movement towards Human Rights

In his review of the natural rights tradition Lewis Hinchman (1984) makes the point that ‘There is nothing inevitable or sacrosanct in the doctrine of Human Rights’ (Hinchman, 1984, p.8). He goes on to cite the attitude of Thrasymachus in Plato’s *Republic*, who proclaimed according to Plato, as we saw in Chapter One, that ‘justice is nothing else than the interest of the stronger’

(Plato). Hinchman rejects this view, though he does add that it may ‘represent the ‘true’ opinions of more than a few Americans’ (Hinchman, 1984, p.8). [I would add here ‘more than a few Australians’].

Though there are critiques of Human Rights from a leftist perspective it is by and large, as will see in the next chapter, from the conservative wing that criticism of the Rights agenda has come. To understand the nature of the link between conservatism and opposition to a Rights agenda it is worth noting, here Zehra Arat’s (2006) comment that:

...because each violation [of rights] is allowed, if not sanctioned, by the prevailing cultures, the recognition of each right emerges as critical of some aspects of each culture, at least implicitly (Arat, 2006, p.423).

Here many of the arguments orientate around how rights are conceived and what possible basis there is for them.

A Basis for Human Rights

Jerome Shestack (1998) has provided a useful taxonomy of approaches to solving the vexed question of whether there are grounds for believing in Human Rights. The first source of grounds for Rights that he considers is that of religion. In Christian terms the key notion is that man and woman were made in the image of God. This as we have seen in Chapter Two was the core belief of the radical priest Fr Ted Kennedy. When he saw one of my people he saw Christ. The crucial point here, is that if we are all made in God’s image then we have a worth and a dignity, from which as Shestack argues ‘components of a comprehensive Human Rights system can flow logically’ (Shestack, 1998, p.205).

Shestack is also careful to point out that the Christian belief that Adam was made in the image of God is paralleled in other religions. Thus he quotes the Holy Koran as saying ‘surely we have accorded dignity to the sons of man’ (Shestack, 1998, p.205).

Similarly Shestack informs us that in the Bhagavad-Gita we can find the following:

Who sees his Lord
Within every creature
Deathlessly dwelling
Amidst the mortal:
That man sees truly

(quoted in Shestack, 1998, p.205).

It would be remiss here not to canvass something of the limitations of the religious approach to Human Rights. Scholars such as Ignatieff eschew arguments for a religious basis for Human Rights because, he argues, that will lead to interminable debates between the various religions and in so doing will weaken the universalistic basis of rights (Ferry, 2007, p.92).

As an example of the kind of disagreement one can find among religious thought on Human Rights, one can turn to the Buddhist position as interpreted by Peter Hershock (2000). There Hershock alleges that there is a problem for Buddhist thought with the general position on rights because the former is inherently relational stressing our interdependence (Hershock, 2000, pp.10-11), while the rhetoric of rights is attached to the notion of individual autonomy which forms the basis of so much Western thinking on rights (Hershock, 2000, pp.16-17). Hershock (2000, p.17) also sees that the emphasis on universality in rights tends to undermine the individual's cultural identity.

One further point made by Hershock is well worth considering. He makes a distinction between the 'societal' and the 'social'. Human Rights discourse traditionally takes the former as its domain, and as a consequence the emphasis is on the legal, political and economic institutions that can guarantee the rights and also on the roles that we are expected to play out (2000, p.19). By contrast the social is based on our interdependence and the stress is on 'improvisation-rich' interrelationships (Hershock, 2000, p.19).

Hershock's criticism of the abstract universality of much of the discourse on Human Rights is well taken. Yet I hope to show that if we deploy Bhaskar's concept of the concrete universal much of Hershock's reservations can be answered. There remains however the problem that as Collier (1999) points out all too often religious rights have been posed in terms of 'thou shalt not', that is in terms of restrictions rather than the amplification of freedoms. Moreover the record of religions with regard to phenomena such as imperialism, colonialism and slavery has been extremely spotty indeed (Shestack, p.1998, 205). Likewise as we saw in Chapter Two with Vernon Yanner's narrative Australian missionaries have often engaged in the denigration of First Australian dignity (Hooper, 2008, p.136).

The next basis for Human Rights that Shestack considers is natural law. This was a view of rights which was based on that, which was in accordance with our basic natures. Variations of natural law are found in Sophocles and Aristotle. In the Medieval period the philosopher Thomas Aquinas maintained that natural law conferred rights on upon individuals as it was in accordance with God's law (Shestack, 1998, p.205).

There are important points of difference here in the natural law theorists, Locke and Aquinas, that are worth noting as they do still surface, though often indirectly, in debates on rights. For

Aquinas the crucial thing was the common good, and man only became human as a member of a community. For Locke, man was motivated above all by self-preservation. He entered society because this was the best way to protect his property. For Aquinas the good life was one of virtue whereas Locke treated it as being able to organise one's life and property in security (Crosson, 1983, pp.896-897). These differences help, perhaps, to explain why a Catholic like Fr Brennan, who is so clearly concerned with the common good, has difficulty getting on the same page as neo-Benthamites such as Allan (See Chapter Eight).

Shestack points out that gradually natural law took on a more secular tone in the work of jurists such as Grotius and Pufendorf. In their work humankind was seen as social and rational and anything that disturbed this natural harmony was wrong and unjust (Shestack, 1998, pp.206-207).

The growth of and increasing secularisation of Human Rights based on natural law can be understood as an enlightened response to the power of Absolutism. As such, it played an important role in the French Revolution and in the promulgations of the Rights of Man (Shestack, 1998, p.206). Nonetheless there is the problem of the absence of any agreement on what constitutes the norms that flow from natural law (Shestack, 1998, p.208).

This uncertainty about the norms partly contributed to the development of a Positivist approach to Human Rights. Here as we will see with Jeremy Bentham, there is a denial of any *a priori* basis for Human Rights. The legal system conveys rights and there is no higher tribunal or principle to appeal to. Law can of course be reformed and many positivists such as Bentham were ardent reformers.

Then again, as Shestack shows, there is a problem in placing the state and the laws it promulgates as the supreme principle and arbiter of rights. He cites here, the instances of laws which clearly are inhumane, such as those that underpinned the Holocaust or Apartheid in South Africa (Shestack, 1998, p.209). I would add here, the regulations and laws which permitted the genocidal practice in Australia that has come to be known as the Stolen Generations.

There is the additional problem of the nation basis that often underpins the positivist approach. This leads proponents of this position to be at best suspicious of International Covenants. As we will see in the next chapter, this tendency is very strong in Australia and it has led to the situation where our country is the sole advanced nation without a Bill of Rights.

Can Critical Realism provide a basis for Human Rights?

In his review of the various attempts to provide a foundation for rights, Fred Dallmayr (2002) asks whether in the light of the widespread nature of the talk of Human Rights whether we should not revisit the question of the putative foundation for Human Rights. The key questions, for Dallmayr, are whether rights have a foundation, or are merely arbitrary fictions (2002, p.174). Here he is extremely pessimistic about the possibility of establishing any foundation.

The candidates he considers are human 'nature', reason or spirituality or 'spirit' (the God that dare not say its name). The human nature candidate gets an extremely short shift, in fact too much so. Dallmayr (2002, p.175) is content to ask 'how 'nature', as a causal nexus, can function as the source of moral or legal titles'. There would appear to be a slippage in this instance from human nature to nature with scare quotes added. If one ignores the slippage then, it would appear indeed silly to suggest that nature can be the cause of moral or legal rights. On the other hand, the argument is much less persuasive if one retains the notion of human nature and asks whether there is anything specifically about being human that would support moral and legal rights.

Moreover, if we move to Bhaskar's four planar model of social being – transactions with nature, transactions with institutions, transactions with other human beings and transactions with self (Bhaskar, 1993), then we have firstly a grounding of the concept of human nature which allows us to both see the complexity of the concept and the dimensions along which it operates. This I would suggest is how we could motivate a much more plausible argument for human nature and the way it operates socially as a basis for Human Rights.

The other candidates for a base are also dismissed in much the same fashion. To found rights on reason, can lead according to Dallmayr to a regime which is dismissive of that, which is seen as irrational. There can be little doubt here that Dallmayr has a point especially if one considers Hegelian thought. His notion of history as the unfolding of reason led him to dismiss the entire continent of Africa as being outside history and Africans as being mere childish savages (Hegel, 1956, pp.91-93). It is no excuse but as James Kuykendall (1993) demonstrates Hegel's views on Africa were primarily due to his ignorance of African culture and history.

The third candidate that of spirit, is interpreted by Dallmayr (2002, p.175) as being the transcendent God who has conferred rights and can take them away again as he sees fit. This picture of God as the arbitrary judge would hardly satisfy religious scholars, who have written on rights, such as Michael Perry (1997) or Jacques Maritain (Crosson, 1983). Nor does it apply to those who think of God in immanent terms as the God within. Given my comments here on Dallmayr's dismissal of rights foundationalism, it will come as no surprise when I express

disagreement with Jamie Morgan's description of Dallmayr's critique as 'highly effective' (Morgan, 2003, p.576). I will return to Morgan when I consider his use of the critical realist concept of explanatory critique to motivate a regime of rights. For the moment, though, I will examine Dallmayr's solution to what he sees as an absence of a foundation for rights.

The first of these solutions is to prioritise the role of justice or rightness, where rights are seen as social and political mechanism to create a just society. This in turn means that universality becomes not a precondition for rights but rather the intended destination (Dallmayr, 2002, p.177).

The second solution involves the three generations of rights. The first of these consists of the demand for civil and political rights. The second generation had to do with social and economic rights including the right to welfare and education. The third generation of rights were principally cultural and collective rather than individualistic and were promoted by disadvantaged minorities and First Australian groups (Dallmayr, 2002, p.182). Dallmayr concedes that there is potential tension between these rights (Dallmayr 2002, pp.176-177) and he argues for a 'pre-occupation with 'second and third generation' rights [because they are] protective shields of underprivileged social and cultural groups and populations' (Dallmayr 2002, p.184).

Morgan's critique of Dallmayr's work is as we have seen largely sympathetic. He too takes up the demand for a just society. He draws upon Bhaskar's explanatory critique (See Chapter Two) with its rejection of a radical disjunction between what is and what ought to be. He argues rightly, in my opinion, that the explanatory critique puts an end to a dualism which splits off morality from every day and political life.

Nevertheless he notes that:

...groups and states rarely try to justify acts such as slavery, genocide, torture, arbitrary detention, and systematic racial discrimination on the basis of particularistic claims of principle, moral superiority, righteousness et cetera. Rather, such activity is denied, disguised, or subsumed under functional arguments of expediency or necessity... as means-ends, security-stability argument that they contribute in a long-term sense to the construction of the conditions for universal rights to flourish (Morgan, 2003, p.581).

This state of affairs proved implicitly for Morgan that there is some basic state of affairs, such as respect for life, which somehow we wish to nurture.

The Bhaskarian notion of explanatory critique means that if we can establish that practices such as torture exist, then we ought to take steps to see that they stop. Moreover, we ought to dissolve the conditions which necessitate or seek to excuse or deny the use of torture.

Alongside his use of the concept of explanatory critique, Morgan deploys Bhaskar's rejection of Humean causality which is predicated on the constant conjunction of events (Morgan, 2003, pp.577-8). Morgan points out correctly that constant conjunctions such as 'whenever **a**, then **b**' rarely if ever are obtained outside the laboratory. Morgan makes the point that Humean causation would eliminate the human subjects who are typically 'intelligent beings [who] reflect on their activity and respond in different ways to the same situations through time and space (Morgan, 2003, p.578). To understand the social world as being outside the Humean paradigm of causality, means that many of the arguments against a Bill of Rights, assuming it would lead inevitably to free love or anarchy, are groundless.

The Left Critique of Human Rights

It is in recognition of the tendency to abstract universalism within modernist society, that we can find an explanation for the critique of Human Rights by Liberation Theologians. The latter argued in the face of the Human Rights crusade that initiated by the Carter Administration, that the Human Rights movement lacked a systemic vision which would enable one to understand and combat social injustice. They also stressed that the push for Human Rights tended to legitimate capitalist societies which were responsible for making basic Human needs inaccessible to most of Humanity. A third focus of attack from the Liberation theologians was that an emphasis on Human Rights was used as a means of delegitimising the struggles of the poor to seek justice. Finally, they stressed that the push for Human Rights had its origins in the bourgeoisie and as such, tended to down play the role and agency of the dispossessed in their own emancipation (Engler, 2000, pp.346-350).

Interestingly, in his discussion of the Intervention (see Chapter Seven) Gaita (2007) also critiques the politics of demanding one's rights. He does this to be fair in the context of rejecting Noel Pearson's allegation that the Left emphasis on rights has precluded the acknowledgment of responsibilities (Gaita, 2007, p.304). Gaita's criticism of the politics of Rights in the First Australian context is that they do not have the political (or military) power to demand rights. They should, according to Gaita, rest their case on appeals to justice (Gaita, 2007, pp.304-305). Here he quotes Simone Weil:

If you say to someone who has ears to hear: 'What you are doing to me is not just', you may touch and waken at its source the spirit of attention and love. But it is not the same with words like 'I have the right...' or 'you have no right to...' they

evoke a latent war and awaken the spirit of contention. To place the notion of rights at the centre of social conflicts is to inhibit any possible impulse of charity on both sides (Weil quoted in Gaita, 2007, p.305).

The point that Weill and Gaita are making is a serious one. But I am inclined to feel that it is more of a tactical rather than a strategic question, and as such do not consist of an argument against a rights based agenda. Thus, I would argue that whether one should base one's arguments on rights or appeals to justice, depends on the context. There may also be occasion where one can combine both.

A more secular criticism of the demand for Human Rights has been made by Ci (2005). For him Human Rights reflects the consciousness and the power of the well-off. The latter tended to use the language of universalism to support their own condition of life (Ci, 2005, p.259).

The proto-type for secular Leftist critiques of Human Rights is of course Karl Marx's *On the Jewish Question* (1844). There Marx argued:

None of the so-called rights of man, therefore, go beyond egoistic man, beyond man as a member of civil society – that is, an individual withdrawn into himself, into the confines of his private interests and private caprice, and separated from the community. In the rights of man, he is far from being conceived as a species-being; on the contrary, species-like itself, society, appears as a framework external to the individuals, as a restriction of their original independence. The sole bond holding them together is natural necessity, need and private interest, the preservation of their property and their egoistic selves (Marx, 1844).

George Brenkert has pointed out that there is a considerable debate in the literature about Marx's attitudes towards rights (Brenkert, 1986, p.55). Clearly in the quote above, Marx was anxious to point out that the demand for rights within the capitalist epoch necessarily reflected the values of that epoch, hence his critique of the egoistic basis of the Rights agenda. Nevertheless, Marx did envisage an era when the bourgeois or capitalistic limits on rights could be transcended. Thus, in his *Critique of the Gotha Program* he wrote:

In a higher phase of communist society, after the enslaving subordination of the individual to the division of labour, and therewith also the antithesis between mental and physical labour, has vanished; after labour has become not only a means of life but life's prime want; after the productive forces have also increased with the all-around development of the individual, and all the springs of co-operative wealth flow more abundantly - only then can the narrow horizon of

bourgeois right be crossed in its entirety and society inscribe on its banners: From each according to his ability, to each according to his needs (Marx, 1875)!

As someone born into the 'property-less' classes I have a certain sympathy for Marx's critique of the reduction of the rights of man, to the demand for private property rights. Moreover, the forms of ownership in traditional First Australian society were certainly more collectivist than the individualistic ideals of capitalism. I also fully endorse the slogan of, 'from each according to his ability, to each according to his needs'. Indigenous Australia has much to give and to gain from both aspects of that slogan. Nor do I wish to express any disagreement with the sentiments expressed in the following quotation:

Only when the real, individual man re-absorbs in himself the abstract citizen, and as an individual human being has become a species-being in his everyday life, in his particular work, and in his particular situation, only when man has recognized and organized his 'own powers' as social powers, and, consequently, no longer separates social power from himself in the shape of political power, only then will human emancipation have been accomplished (Marx, 1844).

On the other hand, we cannot simply wait for the Communist utopia to arrive. In addition, given the concrete political conjuncture in which we are operating, I would argue that we should support the move towards a Bill of Rights.

Right wing critiques of Human Rights: The case of Jeremy Bentham

Jeremy Bentham (1748-1832) is a crucial figure in the development of British Liberal thought (Courtney, 1889, pp.51-2; Jennings, 1933, pp.125-137; Macpherson, 1977, pp.23-43; Milner, 1991, pp.6-17). His central idea was that our actions are guided by the search for pleasure (utility) and the avoidance of pain. The criterion for judging the goodness of an act was whether it contributed or not, to the greatest happiness of the greatest number (Sidgwick, 1967, pp.240-243).

The reductive nature of Bentham's approach is evident and it was neatly satirised by Marx in Volume 1 of Capital:

To know what is useful for a dog, one must study dog-nature. This nature itself is not to be deduced from the principle of utility. Applying this to man, he that would criticise all human acts, movements, relations, etc., by the principle of utility, must first deal with human nature in general, and then with human nature as modified in each historical epoch, Bentham makes short work of it. With the driest naïveté he

takes the modern shopkeeper, especially the English shopkeeper, as the normal man...Had I the courage of my friend Heinrich Heine, I should call Mr Jeremy a genius in the way of bourgeois stupidity (quoted in Collier, 1990, p.135).

It is important to note in this critique, that Marx draws upon a concept of human nature, changeable of course but still special and different. Moreover, he takes exception to Bentham for beginning with an abstract concept – utility and not proceeding from an understanding of human nature. This reductivism is most apparent in cultural matters for what mattered for Bentham was the quantity and not the quality of the pleasure. This led to his notorious remark ‘Quantity of pleasure being equal, pushpin is as good as poetry’ (Bentham quoted in Sidgwick, 1967, p.241).

Such an attitude may help explain the hostility of the cultural critic F. R. Leavis towards what he termed ‘the technologico-Benthamite ethos’ (Hayman, 1976, p.116). This hostility found perhaps its most trenchant expression in Leavis’ enthusiastic endorsement of Dickens’ novel *Hard Times*, with its biting attack on Utilitarianism as represented by the character Thomas Gradgrind (Leavis, 1955, pp.227-248). However, as Raymond Williams (1971) noted evaluating the status of Bentham and his Utilitarianism is a complex matter. He argues specifically *contra* Leavis that:

in condemning Thomas Gradgrind, the representative figure [of Utilitarianism], we are invited also to condemn the kind of thinking and the methods of inquiry and legislation which in fact promoted a large measure of social and industrial reforms (Williams, 1971, p.105).

A similar point is made by James Crimmins (2002) in his evaluation of the influence of Hobbes on Bentham’s thought. According to Crimmins both men were guided by the rational. Neither of them had much time for established authority. Bentham used reason to undermine the authority of the church and boost that of the state. While Hobbes was an absolutist, Bentham’s views led to the formation of democratic institutions (Crimmins, 2002)

Nevertheless Bentham himself was to become notorious in our time for his panopticon proposal for prison reform (Foucault, 1977, pp.200-209). Bentham also championed universal suffrage including votes for women, though he appears to have deemed it better not to advance that demand publicly (Macpherson, 1977, p.36). To his credit Bentham (1978) was also the author of the first pamphlet calling for the decriminalisation of homosexuality *Offences against the Self*. Yet, as with the issue of female suffrage, he seems to have thought it unwise to broadcast his views and as a consequence the pamphlet remained unpublished in his life time.

On the other hand, if his views on women's suffrage and the decriminalisation of homosexuality were to remain unpublished, his views on rights were a somewhat different matter. Although not published until 1816 (Bedau, 2000, p.262). Bentham produced sometime in 1796 a pamphlet attacking the revolutionary French Declaration of the Rights of Man and Citizen.

Bentham did not mince words in this pamphlet. He called the French Declaration 'execrable trash' which has as its aim the promotion of resistance to the rule of law. He alleged moreover that it would lead to insurrection and anarchy. As we will see in the next chapter when we come to discuss the battle for a Bill of Rights in Australia, Bentham's approach was to anticipate the tone and the content of much of the objections raised by the opponents of a Bill. This includes Bentham's most famous remark that a belief in natural rights was 'simple nonsense: natural and imprescriptible rights, rhetorical nonsense, nonsense upon stilts' (Bentham, quoted in Bedau, 2000, p.263).

It is this belief in natural law and rights flowing from it that exercised Bentham's ire the most, mainly because it provided a criterion above the law as it actually existed. For Bentham this gave rise to two kinds of people – the good, rational, critical subject and the anarchist. The former acknowledged both the existence and the validity of the laws he disapproved of but worked to repeal them. By contrast the anarchist:

Trampling on truth and decency, denies the validity of the law in question, - denies the existence of it in the character of a law, and calls upon all mankind to rise up in a mass, and resist the execution of it (Bentham, 1998).

Bentham's objections to the French Declaration were matched by hostility to the American Declaration of Independence and its reference to 'inalienable' rights (Bedau, 2000, p.263). For Bentham there could be no basis for rights other than that conveyed through legislation. As he put it:

...there are no such things as... rights anterior to the establishment of government – no such things as natural rights opposed to, in contradistinction to, legal: that the expression is merely figurative; that when used, in the moment you attempt to give it a literal meaning it leads to error (quoted in Bedau, 2000, p.270).

Moreover, exactly because all rights are conveyed by legislation and only through legislation, such rights could be withdrawn or repealed (Bedau, 2000, p.270). This is of course precisely what took place during the Federal Intervention into the Northern Territory, as we will see in the following chapter.

What is missing from Bentham's account of rights and from Utilitarian liberalism generally is a sense that there are other values than the 'greatest happiness of the greatest number'. Bedau argues strongly that rights must have a moral base and protect minorities (such as First Australians) against majorities (Bedau, 2000, pp.278-279). Bedau also questions whether Bentham's notion of utility or happiness should be both our prime value and principle of judgement. He suggests that, *contra* Bentham, values such as 'liberty, privacy, autonomy, and dignity' should not be playing an 'intermediate role' (Bedau, 2000, p.275).

However it needs to be recognised that the world we live in, especially in contemporary Australia, is one governed by Utilitarian ideals. Milner (1991) has produced the most biting critique of these same 'ideals' and the world it has given rise to and it deserves to be quoted in full:

A utilitarian world would be one in which any commodity could be produced for sale, no matter what the costs of its production, so long as demand for that commodity could be proven to exist at a level capable of rewarding those who would produce it. It would be a world in which the ozone layer would be progressively destroyed in the interests of the chemicals industry; in which child prostitution and drug addiction would be rife; in which almost anything and anyone, from politicians to policemen, could be bought and sold. It is, of course, the world in which we live, here and now (Milner, 1991, p.12).

Human Rights in the International Context: a brief excursus

Lauren's genealogy of Human Rights stresses that 'It is essential to recognize that the moral worth of each person is a belief that no single civilization or people or nation or geographical area or even century can claim' (quoted in Afshari, 2007, p.3).

Afshari disagrees with this and says 'I question the assumption that a premodern civilization, East or West, could imagine 'the moral worth of each person' (Afshari, 2007, p.3). By contrast with Lauren, Afshari is anxious to posit a rupture and not continuity. For him Human Rights are about protecting the individual from the 'potentially abusive modern state' (Afshari, 2007, p.9). This latter task seems to be for Afshari the essence of a Human Rights impulse.

Not only does he discount pre-modern societies, he also sees the contribution of the American anti-slavery, the women's rights, the anti-imperialism and the pro-labour movements as highly problematic in that they were essentially one issue movements. As such they do not provide the basis for universal independent and indivisible rights for the individual.

While Afshari is very strong in his critique of the anti-colonial movements which led to states where Human Rights were violated, he takes little or no account of the continued role of the ex-colonial powers in choosing who would lead the former colonies. Nor in his discussion of the faults of the labour movement does he show how the fact that they were 'profoundly communitarian' (Afshari, 2007, p.34), necessarily impacts on individual rights. Moreover, when he recycles a comment by Tony Judt that 'all-embracing paradigms...lead to all-embracing systems of rule' (Afshari, 2007, p.34), he appears to be more indulging in postmodernist rhetoric, rather than building a substantial case against the universality of the Labor movement.

The point I wish to stress here is that to equate Human Rights totally and exclusively with the rights of the individual, is to deprive oppressed groups such as my Indigenous Australian population of a means to address their oppression which is collective as well as individual. Again the Bhaskarian figure of the Concrete Universal can help us to dissolve the duality that Afshari appears to be working with. If we regard human beings as a multiple quadruplicity, as Bhaskar does, then we can both operate at the level of universal core being, the level of mediations which takes in class, gender, sexuality, ethnicity etc and of course we retain a sense of the importance of the concretely singularised individual.

The problem of constructing a rupture as Afshari does is that the question emerges of accounting where the impulse to Human Rights came from. Afshari himself seems to acknowledge the problem when he says:

Despite all these hostilities, vacillations and reversals the century [19th] prepared the ground for the emergence of an integrative Human Rights discourse in the twentieth century (Afshari, 2007, p.34).

So the emancipatory movements of the past have made a contribution. This must of course be built upon and deepened. This is especially true I believe of the United Nations (UN) Charter. Here Afshari quotes Lauren to very good effect in outlining the defects of the UN approach.

The fundamental difficulty and ultimate paradox, of course, stemmed from the fact that those very governments most guilty of violating the Human Rights of their own people were being asked to provide protection against themselves. For this reason, the overwhelming majority of states remained unwilling to sacrifice elements of their sovereignty for the sake of Human Rights by authorizing the international community to intervene in their own internal affairs. The United States for example could speak eloquently about civil rights around the world, for

example, but not if they exacerbated what Dulles called 'the Negro problem in the South' (Lauren quoted in Afshari, 2007, pp.50-51).

In his analysis of the European Convention of Human Rights, Vasak (1963) points out that while its primary intent was to prepare the ground for European unity, it did also serve as an inspiration for the colonised nations in their struggle for self determination (Vasak, 1963, p.1206). Afshari (2007, p.51) has been very critical and justly so of the results of decolonisation in terms of the guaranteeing of the rights of the citizens of the new nations. He notes that this 'unfortunate failure' has opened a space for the 'new generation of admirers of European grandeur' such as the historian Niall Ferguson. The latter coyly asks:

Might it not be that for some countries some form of imperial governance, meaning a partial or complete suspension of their national sovereignty, might be better than full independence, not just for a few months or years but for decades (Ferguson quoted in Afshari, 2007, p.51).

Afshari (2007, p.51) dismisses, rather contemptuously, Ferguson's views as an attempt to white wash 'the brutality and obdurateness of the British, the French and the other lesser colonial empires'.

Afshari ends his long dialogue with Lauren's book by hailing the emergence of a genuinely global Human Rights movement which has broken through the constraints set up by governments (Afshari, 2007, pp.66-7). This movement would appear to be based on Non Government Organisations (NGO's) and concerned individuals and featured prominently at the 1993 Vienna conference (Afshari, 2007, p.67). I hope of course that Afshari is correct and looking at the example of the Australian government I do see the need to go beyond the intergovernmental approach to Human Rights.

Ignatieff (2001) seeks to defend the notion of Human Rights from three sources of attack. These are firstly radical Islam, East Asia's emerging economies and postmodernism. He gives scant attention to postmodernism's critique of Human Rights except to note that it is based on a relativistic critique of the very notion of universality. I have used the Bhaskarian notion of the Concrete Universal to offset the often legitimate charge that universalism in modernist thought tends to be of an abstract nature.

However Ignatieff is not really interested in this aspect of his topic. Rather his concerns can be seen as largely political and directed to encourage the use of Human Rights against radical Islam. This is fairly familiar territory. Thus we have had events such as Afghanistan preceded by demands for the State Department to defend the women of Afghanistan against the Taliban

(U.S. Dept of State, 2001). I have much sympathy with all women in struggle against patriarchy, but one does need to question the depth of the commitment of the US State Department to female emancipation.

Ignatieff is anxious to portray the passing of the UN Declaration of Human Rights not as cultural imperialism as the Islamic critics of the Charter alleged at the time (Ignatieff, 2001, p.102). However he is also anxious to agree that Human Rights clashes with central aspects of the Islamic tradition especially in its treatment of women and Islam's insistence on the non-separation of secular and religious authority (Ignatieff, 2001, p.103). For Ignatieff the Charter was not motivated by cultural imperialism but rather was a desperate attempt to resuscitate the Enlightenment tradition after the horrors of Auschwitz.

He stresses particularly that the Human Rights movement is designed to protect the individual. He goes as far as to say:

Rights language cannot be parsed or translated in a non-individualistic communitarian framework; it presumes moral individualism and is nonsensical outside that assumption (Ignatieff, 2001, p.109).

However he then goes on to muddy the waters by stating that the language of Human Rights is the only available tool that women and children can resort to in a defence against patriarchal and tribal oppression (Ignatieff, 2001, p.109). 'Women' and 'children' are of course essentially non-individualistic categories.

Nevertheless, although Ignatieff's defence of Human Rights may be couched more within the imperatives of American Foreign policy, it does make the useful point that '[w]e need to stop thinking of Human Rights as trumps and begin thinking of them as part of a language that creates the basis for deliberation' (Ignatieff, 2001, p.116). Arguably Human Rights have never been trumps in the Australian context and it is to the most recent illustration of that tendency that we now turn.

The Australian context: going deep historically

In his discussion of the impact of the UNDHR on the practice of historians De Baets (2009, p.31) argues that under the charter while everyone has a right to remember the past, this cannot become a duty to remember. If one has a right to remember that also guarantees a right to forget. However in his discussion of the role of historians, De Baets makes an exception to this rule. He claims:

As members of a *worldwide community* of professionals, historians are accountable not only to their local and national societies but also to the *global* society. Therefore, they have the collective responsibility, at least as a matter of principle, to investigate the past in its entirety. Even if many people insist that historians should look in the moments of pride of the local or national society only, other people inside and outside that society should also demand investigations of its moments of shame. Therefore, historians should shatter silences and explode taboos (De Baets, 2009, p.32).

Leaving aside the intricacies of the arguments here, I accept that, especially in the terrain of Human Rights, there is a duty on historians to make a public memory available however unpopular the result may be. This is especially relevant in the Australian context where the Opposition Spokesman has explicitly complained about the '118 references' to Indigenous culture in the new National Curriculum (Hudson and Larkin, 2010). Moreover as we have seen in the Introduction and Chapter Three of this thesis to raise even the spectre of the suffering of my people is to be accused of promoting a 'black armband view of Australian History' (Brantlinger, 2004; Ellinghaus, 2009; Markovich, 2010; Stearns, 2003).

What then is the historical background with regard to Human Rights in Australia? An answer must begin with the frank acknowledgment that the Australian Constitutional Conventions of the 1880s and 1890s documented the outright bigotry of some of the great names of White Australia. A Bill of Rights was fiercely debated at the Convention of 1898. I hasten to add that no women, Indigenous people or poor people were represented at any of those conventions. Only bearded, propertied, White men, whose major purpose was to facilitate capitalism between the colonies, were on the discussion board (Clarke, 1964). Only people whose Rights are never at threat of abrogation... The vote for a Bill of Rights was lost 19 to 23. The compassionate Sir Isaac Isaacs argued for the 'yes' case, but was beaten by the group who included Australia's first Prime Minister Edmund Barton, and first Chief Justice of the High Court, Queenslander and blackbird Sam Griffiths. These two 'great' Australians voted down a Bill of Rights, as they feared such a Bill would prevent them from ghettoizing and deporting 'blacks and Asiatics' (Williams, 2008).

Despite such evidence the right wing historian Windschuttle, has recently attempted to mount an argument that:

Mainstream Australian nationalism in the late nineteenth and early twentieth centuries was not based on race and bore no parallels to the ideologies that emerged in Germany and some other European countries (Windschuttle, 2004.).

However Lake (2004, pp.44-53) has shown that ‘Our Founding Fathers’ were very influenced by the race based views of the English historians Freeman, Bryce and Pearson. She also argues persuasively that to understand the actions of Australia’s federal fathers, one has to position them within a transnational framework where they can be seen as belonging to the species ‘white men under siege’ (Lake, 2004, p.58). Historians, such as Windschuttle, by concentrating on the national framework, have minimised the extent to which the ‘Federal Fathers’ saw themselves as part of an international movement to protect the white man.

Certainly there can be no other reading of the following excerpt from a 1901 speech to the Federal Parliament by Alfred Deakin:

There will be no mistake as to our meaning when these speeches are read, and when our votes are seen. Members on both sides of the House [of Representatives], and of all sections of all parties – those in office and those out of office – with the people behind them, are all united in the unalterable resolve that the Commonwealth of Australia shall mean a ‘white Australia’, and that from now henceforth all alien elements within it shall be diminished. We are united in the resolve that this Commonwealth shall be established on the firm foundation of unity of race, so as to enable it to fulfil the promise of its founders, and enjoy to the fullest extent the charter of liberty under the Crown which we now cherish (quoted in Markovich, 2010, p.55).

Not surprisingly First Australian people were specifically excluded from Australia’s Constitution, and were designated ‘fauna’ under the State Flora and Fauna Acts. All the colonies except Tasmania passed *Aboriginal Protection Acts*, originally passed with the intention of protecting the surviving First Australian people from the murderous rampages of White Australians. People living under the Act in Queensland had every aspect of their lives controlled – where they could live (usually a squalid mission), whom they could associate with, who they could marry? Licences for ordinary activities were required but rarely granted. People who challenged the Act were likely to find themselves sent to notorious Palm Island (Attwood, 1994). Incidentally, my father, as we have seen in Chapter One although living on Palm Island, managed to receive an exemption from the Act in 1949 and moved to Townsville.

First Australian people were already fragmented and debased, and were deliberately denied education so as to keep them fit for low-end jobs as underpaid stockmen, labourers and domestics. By the time I was in school, education was available, but it was instilled in our souls that we would never amount to anything. Moreover we should not forget when considering the history of Indigenous Education the role played by White resistance to having First Australian

children educated alongside White children. Thus the former Chief Protector of Western Australia from 1915 to 1940, A. O. Neville, wrote:

Theoretically (sic) native children may attend Government schools, but our people, mainly through such agencies as Parents and Citizen's Associations have seen to it that they shall not. In the West the objection of one white mother to the attendance of a native child at the same school as that to which her own child is going is sufficient to debar the coloured child. All through the years of my administration this trouble kept cropping up, and recently in Western Australia some two hundred white children were kept away from a country school by their parents as a protest because coloured children had been admitted (Neville, 1947, p.149).

Something of the nature of the commitment to Indigenous education can be gleaned from official WA education policy. This was:

A recent departmental ruling [c. 1940s] regarding half-caste children in southern towns allows them, but does not compel them, to attend State primary schools if they are clean and tidy and local white parents raise no objection. If objection is raised the headmaster may exclude them (Hasluck, 1970, p.223).

It is also important when discussing education to put into the record wherever possible what First Australian people wanted. Consider these two letters by John Kickett, of the Quirading people. In 1915 he wrote to the WA minister of Education reminding him that he had been promised an education for his children:

...providing I lives as a white man and I looked after my children. Now Sir, I am farmeing I have 200 acres of land and Trying to make a living out of it...I was teached at a State school and don't want to see my children degraded (sic).

Three years later Kickett wrote to his Member of Parliament, thus:

I want a Little Fair Play if you will Be so Kind Enough to see on my behalf...I have five of my People in France Fighting Since you were her for your Election one has been Killed which leaves four...as my people are Fighting for our Kind and Country Sir I think they should have the liberty of going to any State school (sic; quoted in Biskup, 1968, p.450)

Kickett's story is not a unique one as Fletcher (1989) has shown. What the published extracts from Kickett's letters testify to is his willingness to educate his children and to become a full

citizen of the country. It is evident that the dead hand of racism had other plans for him however.

Nor must we neglect in any discussion of First Australian poverty to recall that many thousands of hard-working First Australian people had their wages and child endowment stolen by the State of Queensland for the purpose of capital infrastructure, or in the case of the Territory, by the Welfare Board of local White station-stores (Kidd, 2006). The lawyer Helen Burrows (2007) in her review of Kidd's book describes this surreptitious theft of First Australian wages as 'a profoundly sinister facet of Australia's enduring treatment of Indigenous people'. Burrows (2007) calls on the Queensland Government to 'compensate their own people for wrongs it committed against them'. We are still waiting.

Human Rights: The Role of Memory and History

In 1996, to mark the 25th anniversary of his ministry in Redfern, Fr Ted Kennedy spoke of listening to the then Prime Minister of Australia, Paul Keating, say the following in Redfern in 1992:

We took the traditional lands and smashed the traditional way of life. We brought the diseases, the alcohol. We committed the murders. We took the children from their mothers. We practised discrimination and exclusion. It was our ignorance and our prejudice and our failure to imagine these things being done to us. With some noble exceptions, we failed to make the most basic human response and enter into their hearts and minds. We failed to ask 'How would I feel if this were done to me?' As consequence, we failed to see that what we were doing degraded us all (Keating, quoted in Kennedy, 2000, pp.137-8).

Fr. Kennedy went on to relate how he looked around him and saw:

...what I had never seen in all my years – the tears welling up in the eyes of countless First Australians who had believed that they would never hear a prime minister of Australia say this (Kennedy, 2000, p.138).

I too shed tears when I saw the coverage of Keating's speech. I believed then that we had turned a corner and in my life time a just Reconciliation was at last possible. Alas since then, we have had the Howard years and the counter attack from the right lead by McGuinness, Windschuttle, Pearson, and Gary Johns. As a result it has once more become necessary to remind every one of the truth of our past and why the struggle for Human Rights is for us a matter of life and death.

Australia's shameful past cannot be swept away. Although massacres of First Australian family groups in the Killing Fields of Frontier Australia, were often so blithely disregarded as to be unremarked. Nevertheless, there was a genre of the proud coverage of multiple 'Myall massacres', in the Burdekin region newspapers from the late 1800s until shamefully recently in history. Something unearthed by Dr Noel Loos, in his PhD research (Loos 1975). Reading Loos' valuable work reminds me forcibly of Allen et al's (2000) work in the United States on the photographs and postcards celebrating the lynching of blacks. 'Wish you were here' indeed!

The wealth of evidence of the centrality of violence in the contact zone between First Australians and non-Indigenous Australians, despite the denials of Gordon Briscoe (1993), Keith Windschuttle (2002, 2004), and John Howard (2006) is unavoidably overwhelming (Evans, 2010). Evans cites here as a paradigmatic case, Korah Halcomb Wills, who was mayor of Bowen 1865, 1867 and Mackay from 1876-1877 (Evans, 2010, p.19).

Among Evans' extensive quotations from Willis' own testimony is the following chilling piece about Wills' behaviour following one particular 'dispersal' of First Australian people.

I took it in my head... to get a few specimens of certain limbs and head of a Black fellow, which was not a very delicate operation I can tell you. I shall never forget the time when I first found the subject I intended to anatomize, when my friends were looking on, and I commenced operations dissecting. I went to work business-like to take off the head first, and then the Arms and then the legs, and gathered them together and put them into my Pack saddle and one of my friends who I am sure had dispersed more than any other man in the Colony made the remark that if he was offered a fortune he could not do what I had done. His name was Peter Armstrong a well known pioneer in the North of Queensland and plucks enough to face 100 blacks single handed any day as long as he had his revolver with him and his Rifle but that beat him he said (Wills, quoted in Evans, 2010, p.16).

Such behaviour of course sprung from a colonial mentality, where the First Australians become the Feared / Despised Other and is expelled from all levels of the Concrete Universal, especially that which affirms the common humanity of First Australians and non-Indigenous Australians. Consider the following expression of just such a mentality:

The Aborigines of my native country are the most degenerate, despicable, and brutal race of beings in existence ... they are insensible to every tie which binds man to his friend - husband to wife - parent to its child - creation to its God (*Sydney Morning Herald* of 19 September 1838, quoted in Wilson-Miller, 2005, p.4).

Here the First Australian is the Feared-Despised Other that must be hunted down and slaughtered in the killing fields or rounded up and sent to the death camps and killed. It is the Other that undergoes genocide.

This is the Other that Native Police Commandant Frederick Walker had in mind after his battle with the Bigambul people in July 1849. He wrote:

I much regretted not having one hour more daylight as I would have annihilated that lot... (Walker quoted in Copland, Richards and Walker, 2006, p.1).

Precisely how such annihilation would have taken place is revealed by the account of the participants, Charley Gaunt, in the Malakoff Creek Massacre of 1886. Gaunt wrote:

The camp was situated on a level piece of ground right on the edge of a cliff at the head of a big steep gorge, the extreme head of the Malakoff Creek. The cliff at the western side of the camp had a sheer drop of about five hundred feet. When the shooting began some of the Abos suddenly wakened out of their sleep, dazed and half asleep, rushed to the edge of the cliff and jumped over. Sudden death awaited them when they hit the jagged rocks at the bottom. When the melee was over we counted fifty-two dead and mortally wounded. For mercy's sake we dispatched the wounded. Twelve more we found at the foot of the cliff fearfully mangled (Gaunt quoted in Roberts, 2005, p.177)

Nor were my people simply the Feared and Despised Other. They could also serve as the Exotic and Erotic Other as this testimony from a non-Indigenous health worker on Palm Island in the 1930s reveals:

There was a whole group come down in chains from Coen... They'd walked the whole distance. Police would be on horseback... A police man got one of the native girls pregnant on the way. There was a big scream when she got down here pregnant. He was very indignant about it, the Superintendent. The girl was only fourteen or fifteen (quoted in Watson, 2010, p.78).

We haven't forgotten the past, the state control of every aspect of our lives. There are people out there who see benefit of the Intervention. I say, remember your history. In Vincent Lingiari's time, black people were not served in pubs. They were considered less than animals, that is, until their worth as stockmen was discovered. Even so, in Lingiari's day, even the most decent station owners who could acknowledge the superior stockmanship of his black workers balked at the idea of affording them equal pay to their white colleagues. The general white

dominated thought was ‘they don’t know how to use money’ and ‘they’ll only waste it’. On what? A few drinks at the pub – at the back of the pub – where their white counterparts are pissing their pay against the wall of the front bar?

In Vincent Lingiari’s time – OUR TIME – working people were paid ‘only six dollars a week and rations: raw sugar, bread and salt beef’ (Hardy, 1968, p.69). Lingiari was of course the leader of the great Wave Hill Strike, a Kadijeri man and a true leader of his people. When the writer and activist Frank Hardy went to Lingiari’s home just after the Walk-off, he was shocked to see a rusty humpy no more than four feet high, eight feet deep and perhaps five feet wide. As Hardy observed:

Vincent Lingiari, the Elder of the tribe, the sacred Kadijeri man, and a noble human being, had had to crawl into this dwelling, often after working daylight till dusk (Hardy, 1968, p.97).

How often has it been said, the more things change, the more they stay the same? Hardy wrote:

And this is affluent Australia in the sixties. If Australia is the Lucky Country, the Aborigines must be the unluckiest people in the world (Hardy, 1968, p.98).

Policing has changed little from Frank Hardy’s day, when he noted the vast disparity between black and white arrests for public drunkenness. The more things change, the more they stay the same. In my state, begging is a criminal offence. Do the rich beg? Do those with happy families, nice house, fine car, beg? Begging is the preserve of the desperate, the desperate poor who have lost their dignity (Hardy 1968). As Anatole France wrote, ‘the law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread’. But the Human Rights of the poor are remiss. Australia isn’t the egalitarian country it prides itself as – there have always been classes, with blue collar workers a small measure ahead of the unemployed white, but at the very bottom of the ladder, on the fourth class, are the First Australian people. Most of White Australia has no idea how this came to be, and most are less bothered to find out.

The Howard government did a fine job of obfuscating First Australian / White Australia history (Manne, 2001a; 2004). Howard’s history was confined to glorious Anzacs and cricket; nothing distasteful; children genuflecting and bowing to national flags at school. Boulden and Morton’s (2007) summary of Howard’s actions in the First Australians arena is worth quoting in full here:

Howard governments have an utterly dismal record in relation to Indigenous affairs. It was Howard himself who reduced the large-scale injustices of

Aboriginal history to a mere 'blemish'. It was a Howard government that officially denied the reality of the stolen generations and jettisoned the idea of 'symbolic' reconciliation. It was one of Howard's Indigenous affairs ministers who chose to abolish rather than reform the Aboriginal and Torres Strait Islander Commission (ATSIC). It was a Howard government that promoted the discredited Keith Windschuttle to the board of the ABC. It is Howard himself who approvingly reads the likes of Gary Johns, the great despiser of 'Aboriginal culture' (Boulden and Morton, 2007, p.164).

The above summary is useful as a correction to the myth being promulgated by Sutton (2009) and Johns (2006) that there was a progressive 'liberal consensus' in charge of Indigenous Affairs from the period 1970-2006. Both Sutton and Johns would appear to be wishing to air-brush the Howard years 1996-2007.

The effect of the Howard years can also be reconstructed from anecdotes such as the following. A friend of mine taught a law class, with students aged from 17 to about 55. She asked them if they had learned in school about genocide, massacres, grave injustices and inhumanity against First Australian people. Not even the young students from the expensive private schools where one would expect a comprehensive education were taught our shared history. All whitewashed, like Howard's version of history.

Instructive here is the experience of the conservative former Federal Court Judge, Ronald Wilson. He was appointed by the Keating government to conduct an inquiry into the removal of First Australian children from their families. The results of the Inquiry were damning, as we know, but right wing commentators such as Brunton (1998), Bolt (2010), and Howson (1999) mounted a counter offensive. In this the formerly highly respected Sir Ronald Wilson was pilloried and his reputation was tarnished by those people in positions of power unable to accept neither the truth, nor their complicity in modern First Australian disadvantage (Manne, 2001b).

Conclusions

Despite the Global Economic Crisis, Australia is still a lucky country, and my people who still live twenty years less than White Australia, continue to have unwanted state intrusion in their lives, and still suffer from the transgenerational scourge of violent colonisation.

Community empowerment to regain our dignity, to help our people help themselves, is the key to better outcomes in 'Closing the Gap'. These concepts are not new - they were both the thrust of many of the recommendations of the Royal Commission into Aboriginal Deaths in Custody and the 1989 National Aboriginal Health Strategy. Acknowledgement of past wrongs, – not just

the dreadful policy of stealing children, but the policies and laws dehumanising people on the sole ground of race must change. The policies are gone from the Statute Books, but public ignorance lingers longer. A key to advancing and elevating First Australian Culture is through Human Rights. Reconciliation requires the understanding of truth. Australia needs to uncover the truth of our history so that we can know what we are asked to reconcile about.

Human Rights of people outside of Australia has been dear to the Australian psyche since Doc H V Evatt burst on the international Human Rights arena to help birth the United Nations and draft out a Charter amenable to the two great Cold War powers of the day. Evatt championed Human Rights abroad, but was careful in wording the Charter, as he knew any attempt to dismantle the White Australia policy was political suicide at home. He was the first President of the United Nations General Assembly and a co-founder of the Universal Declaration of Human Rights (Greenwood and Harper, 1957). Cold War tensions meant that Russian allies and US allies were too antagonistic to turn the entire Declaration into international law, so after much debate and many years, the Universal Declaration of Human Rights was split into the twin conventions of 1966 – the International Convention on Civil and Political Rights (ICCPR) (favoured by the US/UK bloc) and the International Convention on Economic, Social and Cultural Rights (ICESCR) (favoured by the Soviet bloc as it has a more collective character). Australia has both signed and ratified these conventions, and they came into binding international law a long time ago in 1976.

We are all fairly familiar about the ICCPR – right to self-determination, freedom of speech, freedom of life and security of the person. The ICESCR has all the components demanded for years by the poor and oppressed – self determination, the right to shelter, adequate food, employment, natural resources on traditional lands, education, water. These are laws Australia has already agreed to abide by. If Australia, who demands people to abide by Human Rights standards abroad, decided to take the long belated step and incorporated the long held conventions into domestic law in the same manner as *UN Convention of the Rights of the Child* are incorporated in and annexed to the *Family Law Act*, and the *Convention on Biological Diversity* is incorporated into the *Environment Protection and Biodiversity Protection Act*, so too is it a relatively easy thing for parliament to pass a bill incorporating the twin Human Rights Conventions into domestic law.

Passing these Conventions into laws negates any perceived need for Intervention-style actions. The right to shelter, food, employment, and education are all international law, agreed to by Australia. By empowering communities to take control of their destiny, to provide a change for pride and dignity to enter their lives, White Australia can save a fortune paying bureaucrats to shuffle papers and consultants to tell people they are poor. Indigenous Australian money can be

used to inspire, train and facilitate development that delivers alternative paths to passive welfare dependency and the despondency it engenders. Lasting solutions require serious participation of all people affected by decision-making. This is especially challenging in country where community have been pushed around and controlled since the coming of Europeans.

A Bill of Rights, because it will require a change in the Constitution, must be passed through a referendum. I am inclined however, to agree with Chappell (2002) that Australians probably are not ready for a Bill of Rights. So a positive incremental step is to promote a Human Rights culture in our communities. Though as Afshari points out after recounting the way in which after the American Revolution the rights of black Americans were swiftly eroded:

...the mere presence of the rights discourse in political narratives does not signify its practical worth or its widespread applicability (Afshari, 2007, p.15).

However as Cardenas (2005, p.366) notes education about the values and necessity of Human Rights Education is worthwhile in that it helps to foster a sense of community and solidarity within a country. Moreover in her account of the educational work of the South African Human Rights Commission (SAHRC), Cardenas argues that the SAHRC has been able to place Human Rights education 'on the state's agenda and to insert specific Human Rights standards in to the domestic context'.

Thus within the Australian context incorporating the ratified Conventions into domestic law legitimises them in the eyes of ordinary Australians unencumbered by race, sexual orientation or any other aspect of him or herself outside of the status quo. This will occur through instilling civics and history, that is, the real history of this land, not just the sanitised version of glorious Anzacs and heroic explorers and settlers. We rightly condemn the Chinese government for erasing the memory of the extraordinarily brave tank man, stopping the tanks at Tiananmen Square; the Japanese their atrocities in World War Two; and the Turkish for creating a criminal offence to recall the Armenian massacres (Tatz, 1996). But we have to look in at ourselves – until we know our history we can never be free, and once Human Rights become part of the everyday lexicon, all Australians will understand that to be Human is to have inherent dignity.

In the next chapter and the one following I aim to investigate in a more concrete way, the necessity of a concept of Human Rights for the development of Indigenous well-being. Firstly in Chapter Eight the emphasis will be on an exploration at a more macro or institutional level, while in Chapter Nine, I will concern myself with the micro or individual level.

Chapter 8. Human Rights: The Hindmarsh Island Affair, the Battle for a Bill of Rights and the Northern Territory Intervention.

The General Assembly, Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that Indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming those Indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that Indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests... (United Nations, 2007).

Introduction

In this chapter I have chosen three cases studies, which arguably have had enormous impact on the Human Rights of First Australians. The case studies are the Hindmarsh Island Affair, the Battle for the Bill of Rights and the Northern Territory Emergency Response of 2007. I follow here the First Australian precedent of referring to the latter as the Intervention. My aims in this chapter are to give an account of three very important issues and in so doing to attempt something of a critique of the absence of formal mechanisms guaranteeing the rights of the First Australians.

The Hindmarsh Island Affair

The Hindmarsh Island affair was one of the most divisive episodes in the history of First Australians and Non-Indigenous relations in recent memory. Its significance partly lies in the fact that it straddled the period containing the Hawke-Keating and the Howard governments. Simons (2003, p.153) argues that it set the tone for the policies of the Howard Government in the area of Indigenous affairs. Simons also maintains that:

This affair was also the first walk in the sun for several of the culture warriors, and arguably the beginning of the still raging culture wars. Hindmarsh Island was the start of the prevailing attitude of scepticism to oral history – the things Aboriginal people say about themselves (Simons, 2003, p.153).

The affair also has implications for the races power clause in the Constitution, section 51 (xxvi). This gives the Commonwealth the power to make laws for the ‘people of any race, for whom it is deemed necessary to make special laws.’ It used to say ‘except people of the Aboriginal race’ until the 1967 Referendum struck that clause out. Does the constitution really protect Rights? The significance of the Hindmarsh Island affair for my people, lies in the fact that it seems to reveal a limitation in the Constitution, in its ability to protect us, the Indigenous people of Australia.

Because the affair was such a long drawn out and complex matter I include here a chronology based in part on Clarke (1996).

An Annotated Chronology

1985: The beginning - the Chapman family is operating a marina on Hindmarsh Island.

1988: The State government proposes to build a bridge connecting the island to the mainland. The crucial elements are in place. There is then an alliance between private capital and a State government. This alliance will include both the State Labor Party and the Liberal Party. What came into play are questions that continue to concern many in our nation. Arguably the greatest concern, especially for environmentalists, is ‘What is the role of developers within the project of nation building?’ But from a First Australian perspective it is also necessary to ask, as Van Krieken (2004) points out ‘What kind of nation is being built?’ Is it a settler-colonial nation with the accompanying power imbalance between the settlers and the First Australian population being one where the settlers have a virtual monopoly on the power?

Or is it one that is governed by the ideals outlined by Justice Woodward in the Northern Territory case of *Aboriginal Sacred Sites Protection Authority v Maurice* (1986) when he said:

In my opinion the proper protection of minority rights is very much in the public interest, as is respect for deeply held spiritual beliefs. In particular, the rights and beliefs of the Aboriginal people of Australia should be accorded a special degree of protection and respect in Australian courts. Thus I can well imagine a court finding on balance, for example, the outrage in an Aboriginal community caused by a forced disclosure of information about a sacred site, would outweigh the importance in that particular criminal or civil trial of precisely identifying the place or explaining why it was sacred (quoted in van Krieken, 2004, n.p.).

An honest examination of the Hindmarsh Island Affair would show, in my opinion, that Justice Woodward's hopes for recognition of the rights of First Australians have not been realised.

1994: Some First Australian women of the Ngarrindjeri people claimed that the island was sacred to them. These women, who were to become known as the 'proponent women' were led by the late Doreen Kartinyeri, the primary custodian of the Ngarrindjeri's women's business (Weiner, 1997, p.7).

Men's business, women's business and of course, sorry business are well and truly entrenched in our culture, having survived the ravages of two centuries of oppression and suppression. Most of white Australia cannot fathom these deep-seated concepts that run through our blood. They often seek to disparage, or in the case of the Ngarrindjeri women trying to stop the bridge development, accuse us openly of fabrication (Brunton, 1996; Kenny, 2003; Partington, 2003).

The women sent a fax to the Federal Minister saying in part:

Kumarangk is the Aboriginal word for fertile (pregnancy). This is also the name of Hindmarsh Island. It is all Aboriginal 'women's business'. This area represents a crucial part of the Ngarrindjeri culture beliefs about the creation and consistent renewal of life along the Lower Murray lakes, the Murray Mouth and the Coorong. The most serious cultural heritage dilemma concerns the Goolwa channel and its vital cultural heritage significance as part of the Meeting of the Waters (Quoted in Weiner, 1999, p.197).

The Federal Aboriginal Affairs Minister Robert Tickner banned work on the bridge.

1995: Some Ngarrindjeri women alleged that the 'women's business' claim was fabricated. These women were to become known as the 'dissident women'. Something of the political flavour of the role they were to play can be gathered from Kenny (2003) where he constructs them as heroes who stood up to the 'powerful' forces of the Left, the South Australian

Aboriginal Legal Service, ATSIC and the media. In a similar vein in the Senate, the then Minister for Aboriginal Affairs, Senator John Herron, in response to a question from a Liberal Senator, had this to say of the dissident women:

Let me first comment on a group of Ngarrindjeri women who have been consistent and strong throughout the nine years of the Hindmarsh Island Bridge debacle. These women are senior Elders of the Ngarrindjeri people. They include Dorothy Wilson, Bertha Gollan, Dulcie Wilson, Audrey Dix and Jenny Grace. These Ngarrindjeri women have consistently maintained that there was no secret women's business and therefore no reason to stop construction of the bridge. They have now been totally vindicated. They are unsung heroes. For their trouble, they have been vilified by sections of their community and by Senator Bolkus and others from the loony Left of the Labor Party. To a large extent their views have been ignored by many in the media who choose instead to listen only to a particular group of Ngarrindjeri people (Herron, 1998, p.1880).

1995: The South Australian government appointed a Royal Commission headed by Justice Iris Stevens to determine whether 'any aspect of the 'Women's Business' was a fabrication' (Clarke, 1996). Justice Stevens found that the 'Women's Business' was a fabrication. These findings seemed to justify the supporters of the bridge. As such, it was as Kenny describes it, a 'watershed event' (Kenny, 2003). He goes on to quote approvingly Margaret Simons' opinion on the significance of the Hindmarsh Island affair. He says:

She even recognizes how it undermined confidence in the Keating Government in the lead-up to the 1996 election.

Let me quote her on that election result. 'Robert Tickner's career was destroyed. He left politics.... He was generally regarded by commentators, and even by some of his former colleagues, as representative of everything that had been wrong with the Keating Government' (Kenny, 2003).

1998: Dr Kartinyeri, a Ngarrindjeri woman, challenged the validity of the Howard government's *Hindmarsh Island Bridge Act 1997*, which specifically overrode the earlier *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (passed by the Hawke Labor government). Dr Kartinyeri referred to what appears to be protection in the Constitution, section 51(xxvi), the power to make laws with respect to the 'people of any race for whom it is deemed necessary it make special laws.' Dr Kartinyeri argued that s 51 (xxvi) was confined so as to authorise only laws for the *benefit* of 'the people of any race' generally, or, particularly, for members of 'the Aboriginal race'. Fittingly, on April Fools Day 1998, the highest court of this

land found that parliament was totally entitled to make *any* law for any race of people, be it to their benefit, or to their detriment.

The only dissent came from Justice Kirby. The Commonwealth argued (successfully) that section 51(xxiv) allowed even discriminatory laws to be passed, unless they were ‘manifestly unjust’. Justice Kirby eloquently pointed out that the extremely offensive laws in civilised Nazi Germany and Apartheid South Africa started off as minor discrimination, but incremental legislative change - accepted as reasonable by the general electorate – a new law here, a new law there – caused the deaths of millions of people and the untold suffering by many millions more. Therein lies a lesson to all those who believe Parliament – the will of the people – will protect minorities.

2000: The Bridge opened.

2001: Justice van Doussa found that the Steven’s Royal Commission had erred and that the proponent women or ‘women believers’ as Bell (2007, p.693) describes them were ‘witnesses of truth’.

2010, July 5. The South Australian government announces that it will formally recognise the Federal Court Decision. A lawyer for the Ngarrindjeri people formally welcomed the decision (Om, 2010).

In her review of Charlesworth et al (2005), Bell (2007) is critical of the treatment in that anthology of the Hindmarsh Island affair by Tonkinson (2005, pp.247-275). She points out that he did not consult all the evidence adduced in court cases about the affair. For her the case turned on the following elements - The nature of belief, the uneven distribution of knowledge within communities, the Respect system in the transmission of knowledge, and the silences in the ethno-historical record.

It is over this terrain that the anthropologists fought. For Brunton (1996), Kenny (2003), and Partington (2003) the women’s business was a hoax and the anthropologists who defended it were at best dupes. Other anthropologists such as Weiner (1997; 1999; 2004), McIntosh (2000), Peace (2003) and Van Krieken (2010) appear to be anxious to avoid taking part in the more bitter aspects of the controversy.

Weiner (1997) in particular attempts to use postmodernist thought about the constructed nature of belief to suggest the Ngarrindjeri women were necessarily attempting to revive their culture which had suffered from a rupture. This seems a weak defence in view of the charge that the women believers were outright liars.

Nonetheless, Weiner does provide useful information about the career trajectory of Brunton, one of the leading critics of the 'Women's Business'. Brunton has worked consistently over a number of years to discredit attempts by First Australian groups to resist development on religious grounds (Weiner, 1997, pp.5-6). His actions in the Hindmarsh Island Affair are then hardly surprising.

Bell (2007) makes clear her support for the position adapted by the women believers. She also accuses her opponents of misogyny. The accuracy of that charge can be gauged from a reading of Partington's paper delivered as it was to the right wing Sir Samuel Griffith Society in 2003, and Kenny's paper given to the 'right wing think tank', the Bennelong Society, in the same year. Partington (2003) dismisses the women's business as a folly, while Kenny (2003) sneers at Margaret Simons as a 'feminist earth mother'.

Simons (2003) in her reply to Brunton makes the point that both sets of women in the affair were sincere. She makes no attempt to denigrate either faction but she does make the point that the force of the dissident women's case was that they 'weren't told secret women's business, and didn't know of it (Simons, 2003, p.152). She also points out that in evidence before Justice von Doussa it became clear that there were many aspects of Ngarrindjeri culture that the women did not know about. Yet these aspects were not controversial in that they were well documented (Simons, 2003, p.152).

Simons' concludes that:

...I am able to say there is no evidence of fabrication that stands up to scrutiny, and a fair bit of evidence corroborating the Ngarrindjeri's claims. The [Stevens] Royal Commission got it wrong (Simons, 2003, p.156).

Simons' conclusions of course are not likely to satisfy the Right and those for whom the Hindmarsh Island Affair became the 'watershed' that Kenny (2003) refers to. Nor are they likely to heal the bitterness and division among the Ngarrindjeri people. Nevertheless, it is important to have them as vindication of the rights of a group of women who sought to defend an aspect of Indigenous culture in the face of a growing backlash against First Australian self determination.

It is clear that the Hindmarsh Island Affair revealed the limits of First Australian autonomy even in the arena of sacred belief and customs. In almost all cases, matters of controversy were expected to be resolved by appeals to the authority of white anthropologists. It is also clear that the Hindmarsh Island Affair did set the tone for the actions of the Howard Government. As Sarra (2009) points out:

It is worth recalling that one of the first things the Howard government did on coming into office in 1996, was to cut Aboriginal funding by \$470 million over four years, including \$8m from health programs (Sarraf, 2009).

Howard then proceeded to abolish ATSIC in 2005 and to undertake the Northern Territory Intervention in 2007. Would he have been able to do these things if a Bill of Rights had been in place? The very thought of such a Bill is of course an anathema to the Right and it is to an analysis of how they fought against such a Bill that we now turn.

The Battle for a Bill of Rights

The reason I'm happy it isn't going to happen, is that a Bill Of Rights would allow a whole bunch of minorities to impose their will on the majority.

An excellent example is homosexuals, a tiny proportion (less than 2% according to Latrobe University) of Australia's population who are doing their best to impose their chosen behaviour and values on the rest of the country in the form of gay marriage.

In America, they've been able to get this through because over there it's judges who make decisions rather than politicians.

If for no other reason, I don't want a bill of rights over here.

I don't ever want to have to say 'I'm married, to a woman'

(Cmpalm, 2009, "Delighted that there's no chance of a Bill Of Rights" posted at <http://www.openforum.com.au/NHROC/Bill-of-Right> on 27 May 2009)

Australia is unique in that it is now 'the only democratic nation in the world without a national Human Rights law' (Williams, 2008). In 2008 the Rudd Labor Government set up a National Human Rights Consultative Committee (HRCC) headed by Frank Brennan. The terms of reference for the committee made it clear that the government would not consider a Bill of Rights that was entrenched in the constitution (Brennan, 2009b). The committee were to put three questions to the public. These were:

- Which Human Rights (including corresponding responsibilities) should be protected and promoted?
- Are these Human Rights currently sufficiently protected and promoted?
- How could Australia better protect and promote Human Rights? (HRCC, 2009).

The committee received thousands of submission, held public forums and conducted market research. Brennan (2010a) reports that:

The clearest finding from our work is that Australians know little about their Human Rights - what they are, where they come from and how they are protected. They need and want education. They need and want to create a better culture of Human Rights in those organisations that deliver public services to the community. (Brennan, 2010a)

The HRCC also found that there was a strong majority in favour of a charter or a Bill of Rights (Brennan, 2010b). The committee reported in April 2009. The Rudd Government however declined to accept the committee's recommendation to legislate a national Bill of Rights (Colvin and Woodley, 2010).

The case against a Bill of Rights

The battle around the Bill of Rights turned out to be a bitter one. The opening salvo was fired in *The Australian* editorial of 4th December 2008, shortly after the establishment of the Brennan Committee. This editorial set the tone for those opposed to a Bill of Rights and also gave the general line which was to be followed. In terms of tone, those supporting the Bill were labelled 'undemocratic', arrogant and naïve (*The Australian*, 2008). The line was that such a Bill was a threat to democracy because it took power away from elected parliamentarians and gave it to unelected judges. This according to *The Australian* was setting up a 'benign dictatorship of the judiciary'.

The variations that were to follow in terms of tone were that the language was to become more strident and populist. Thus the doyen of Australian journalists, Paul Kelly (2009), alleged that the Bill of Rights was a 'poisoned chalice' for Rudd which would 'further divide the country'. Appealing directly to Rudd's sense of self-protection, Kelly (2009) argued that to push a Bill of Rights could cost Rudd the next election.

More controversially, perhaps, Janet Albrechtsen accused the Brennan Committee and those who supported them of being liars. Thus she wrote:

When Frank Brennan released his report recommending a federal Human Rights Act for Australia last week, supporters of an HRA used more of their literal-truth word games to hide substantive untruths.

The emotional bait this time, and an incontrovertible truth, is that we all care about protecting Human Rights. Then they slide seamlessly from a truth to a falsehood by claiming that Australians support the introduction of a Federal HRA (Albrechtsen, 2009).

Albrechtsen's level of vitriol and abuse was more than matched by Akerman (2008), Angela Shanahan (2009), Margaret Kelly (2010) and Chris Merritt (2010). Margaret Kelly's accusation that the Bill of Rights was a 'Trojan Horse' was to be taken up as we shall see by Brennan (2010a). It is perhaps Shanahan's description of one of the community consultations that touches the depths of personal abuse when she wrote of the meeting she attended:

Benignly orchestrated by Brennan, at best the discussion could be described as disconnected, esoteric, palaver, encompassing all the usual stuff on the human rights list: gay marriage; euthanasia (no doubt, because of the age of the participants, that was a favourite topic); ire over suspensions of the Racial Discrimination Act and welfare measures during the Northern Territory intervention; and, naturally, David Hicks and asylum seekers (Shanahan, 2009).

It is difficult to know how to respond to the columnists. Their work studiously avoids rational debate. Fear, ridicule and abuse are instead the chosen weapons. If one supports gay marriage, as I do, then one is either the Comical Other or the Feared Other. Similarly to oppose the Northern Territory intervention is to earn another sneer from Shanahan.

Things are scarcely better, when we examine how James Allan, a leading academic, took part in the debate. He did not depart from the precedent set by *The Australian* editorial and the host of columnists. Thus he (Allan, 2010a) labelled the committee members 'smug, sanctimonious and condescending [towards] your average Australian'. In a further attack, he alleged that the passing of the Bill would reproduce the British position where 'the British judges...said they could now read words in, read words out, and pretty much do anything short of the hokey pokey' (Allan, 2010c). In the same article a critic is described as being 'full of crap' (Allan, 2010c).

The language here might seem surprising for someone who is the Garrick Professor of Law at the University of Queensland. But it is to be understood in terms of the populist stance that was prescribed by *The Australian*. Allan and the other critics of a Bill of Rights construct themselves as the 'people's champions' and of course we know the people swear a lot. However, the learned professor's mask slips at times. Thus he labels the proposed education campaign about Human Rights as 'bunk on stilts'. This is an inter-textual reference to Bentham's allegation that any *a priori* claim to rights was 'nonsense on stilts' (cited in Morgan, 2003, p.576).

It may also be that something of the hostility in Allan towards the very notion of rights, can also be traced to Bentham, for as we saw in Chapter Seven, Bentham described the French

Declaration of August 1789 as 'simple nonsense: natural and imprescriptible rights, rhetorical nonsense, - nonsense upon stilts' (quoted in Bedau, 2000, p.263).

In terms of argument, however, Allan does not make his debt to the anti-rights Benthamite tradition clear. He is content rather to repeat the line that 'when you buy a Bill of Rights, all you're really getting is the views of unelected judges rather than of elected legislators' (Allan, 2010b). To be fair to Bentham, as we will see in Chapter Seven, he opposed any notion of infallibilism or absolutism. This for him included not only the pope but elected politicians. Indeed as Melissa Schwartzberg (2007, pp.574-5) makes clear Bentham believed that the 'imprimatur of infallibility comprises a remarkably effective means by which political and religious authority can secure sinister interests'. Some of Bentham's scepticism could indeed have been applied to the 'trust the elected representatives' case that was put by Allan and others.

This too is the gist of the politicians' objections. Former Prime Minister, John Howard, former Premier of NSW Bob Carr and the then NSW Attorney General, John Hatzistergos, all came out against a Bill of Rights on the grounds that it would take power away from elected representatives and give it to the non-elected judges. Carr added that the United States had a Bill of Rights but that had not prevented slavery (cited in Carr, 2009; Hall, 2008). The argument here is spurious. That the American Bill of Rights was not sufficient to prevent slavery does not mean a bill of rights is unnecessary.

Hatzistergos threw in some scare mongering from the British experience courtesy of the tabloid Daily Mail. He quoted an editorial from the latter thus:

Travellers and squatters have also invoked it [Bill of Human Rights] to avoid being evicted from other people's property, while this same legislation has prevented the police from identifying murderers on the run. As if this were all not bad enough, the act undermines our democracy by giving unelected judges the power to make laws on hugely sensitive matters as individual privacy and the freedom of the press (*Daily Mail* quoted in Hatzistergos, 2008).

Travellers and squatters are of course the victims of modernity. They are often powerless and regularly suffer from harassment by police and local authorities (Spencer, 2005). That a Human Rights Bill should assist them is a positive for the notion of a Bill of Rights. The most prominent politician to come out against the Bill of Rights was former Prime Minister John Howard. Once more the argument was the familiar one that such a bill would diminish the power and prestige of Parliament. Howard too constructed himself as the champion of the people, when he said:

In the Australian context, the adoption of a charter or bill of rights would represent the final triumph of elitism in Australian politics – the notion that typical citizens, elected by ordinary Australians, cannot be trusted to resolve great issues of public policy, and that the really important decisions should be taken out of their hands and given to judges (Howard quoted in Dennis Shanahan, 2009).

This strikes one as somewhat hypocritical coming as it does from the man whose government locked up child asylum seekers for years, and who suspended the Race Relations Act so he could launch the Federal Intervention into the Northern Territory.

If Howard's contribution smacks of inconsistency, one cannot say that of another influential contributor, Cardinal George Pell, the Head of the Roman Catholic Church in Australia. We have already encountered in Chapter Two, Cardinal Pell through my discussion of Fr. Ted Kennedy's (2000) polemic *Who is Worthy?* Pell opposed the Bill of Rights just as he had opposed in 1988, when he was then Catholic Auxiliary bishop of Melbourne, the attempt to place a number of rights, including Freedom of Religion, into the Constitution (Australian Council for the Defence of Government School (D.O.G.S.), 2008).

There is a paradox in Pell's position on the Bill of Rights as the Council of Catholic Bishops officially took a neutral position. However Fr. Frank Brennan (2010) alleges that Cardinal Pell formed an alliance with the Australian Christian Lobby which as we shall see opposed any thought of a bill. Equally worth noting here is that, as Brennan (2010) points out, the Uniting Church and the Anglican General Synod were in favour of a Bill of Rights.

For Pell (2009) the Bill was however 'ideology dressed up as social justice'. He worried about the culture that would ensue from the passing of such a bill. Explicitly he mentioned abortion, Catholic hospitals and the ability of the Catholic Church 'to exercise a preference for people who share their faith'. As in 1988 the fear here seems to be that freedom of religion can all too easily morph into freedom from religion.

The Australian Christian Lobby (ACL) put in a lengthy submission. It began with a rather complacent statement that all is well in Australia. It moved from this to claim that they were strongly in favour of rights and that Christians had 'for centuries been at the forefront of initiatives that protect the fundamental Human Rights of all people' (ACL, 2009, p.3). The word fundamental is given considerable force by the ACL. They explicitly oppose the Bill because it will lead to the spread of new rights for 'unrepresentative activists' (ACL, 2009, p.1). They mention here those who campaign for same-sex marriage, for the right to have an abortion. They see a Bill of Rights as promoting individual rights above the 'values held in common' (ACL, 2009, p.1). They move in a rather contradictory fashion from this attack on

individualism to complain that by ‘specific rights legislation we hand power over the individual to government’ (ACL, 2009, p.3).

Much of the case of the ACL consists of what one might term horror stories that are a direct consequence of legislation enshrining rights. These range from a paedophile not being able to be banned from a gym in the UK, to a man in a siege having chicken brought to him lest his rights be infringed (ACL, 2009, p.4).

Alongside these tales of horror there is the argument that a Bill of Rights could lead to same sex marriage as it has in Canada (ACL, 2009, p.9). Equally concerning for the ACL is that rights legislation might mean that Church organisation might have to employ homosexuals as they were forced to do in the UK (ACL, 2009, p.14). One can only say here ‘Let us hope so!’

More interestingly the ACL make the point briefly that Christians have for centuries been in the forefront of initiatives that protect the fundamental rights of all people (ACL, 2009, p.3). They argue further that the terrain of Human Rights is God’s own, and that governments should not seek to give them or to take them away (ACL, 2009, p.3). For the ACL, God is ‘the source of human dignity’ and the modernist failure to acknowledge that, has undermined any solid foundation that Rights might have.

How is one to answer these claims? Perhaps it is sufficient to say that the record of Christian churches in the terrain of rights is somewhat patchier than the ACL would have us believe. Moreover though, it should be clear from my commentary on Human Rights in Chapter Seven that I have a good deal of respect for those who would ground rights on a spiritual basis or a feeling that to be human is to be of worth (Collier, 1999), that does not mean that a secular approach is necessarily without a solid foundation.

So much then for the contribution of the academic, the columnists, the politicians and the religious Right. To get what is perhaps a more measured case one needs to turn to Elise Parham (2010a; 2010b) writing for the right wing Centre for Independent Studies. Parham’s like *The Australian’s* first move is to pose three questions about the proposed Bill of Rights. She asks:

- Who will influence the drafting of the terms [of the Bill of Rights]
- In what way might judges pursue their role at the federal level, in the short run and in the long run?
- Will the charter be as pervasive as critics suppose? (Parham, 2010a, p.1).

Her answer to the first question is to insist that a Bill of Rights is a political rather than a moral question. Indeed she argues that the moral imperative is something of a smokescreen for the advancement of the political interests of ‘a savvy few’ (Parham, 2010a, p.1). Indeed for

Parham, the moral aspect of a Bill of Rights represents a special danger in that it means that '[rights] charters can become subject to less scrutiny relative to other laws, despite being more pervasive' (Parham, 2010a, p.3).

To advance her case here she turns to public choice theory, which claims that public actors can seek benefits in the much the same way as those acting in the private domain. In the public domain according to public choice theory these 'rent-seekers', as they are termed in public choice theory, may have the best of intentions but this necessarily brings them into conflict with those who do not share their morality (Parham, 2010a, p.7). What emerges then is a kind of *bellum omnium contra omnes*, where rights inevitably conflict (Parham, 2010a, p.9), and the victory for one side means defeat for someone else. So rights, then, is viewed by Parham as a zero sum game, where winner takes all.

To prove her case she turns briefly to the history of the United Declaration for Human Rights and places it within the context of the developing Cold War, where the Soviet Bloc argued for social and economic rights while the West emphasised the need for civil and political rights (Parham, 2010a, p.5).

One can grant much of Parham's case here. The agitation for a Bill of Rights is a political undertaking. That is equally true of the opposition to such a Bill. Nonetheless, even though there is a political dimension that does not necessarily preclude a moral dimension. Indeed, it is clear from a reading of Parham's examples, that it is the moral dimension that causes her a great deal of concern. For her it makes the Bill look 'like the innocent flower, but [one that has] a serpent under it' (Parham, 2010b). The implied comparison in this instance between those who campaign for a Bill of Rights and the murderous Macbeth family is duly noted.

Thus she mentions that a Bill of Rights would in all likelihood mean abortion rights (Parham, 2010b, p.7). She also turns to the UK where the Bill of Rights, lead to a situation where 'a homosexual partner was granted a right of succession to his deceased partner's house, even though the right in the UK legislation was extended only to spouses, heterosexual couples and family members' (Parham, 2010b, p.14). Another shock-horror scenario is referred to briefly concerning the impact of a Bill of Rights on religious freedom (Parham, 2010b, p.10). Here apparently Christians are always the losers.

Underlying Parham's argument is the unstated supposition that the current law is somehow politically neutral and represents universal rather than sectional interests. That of course is a necessary assumption for someone who wishes to mount an ideological defence of things as they are. Parham (2010a; 2010b) can only see one set of special interests at play and she can

only imagine with horror the world that they will bring into being (Parham, 2010a, p.19; 2010b).

It is obvious that Parham does not feel that our current culture needs to change. For Parham and indeed all of those who opposed the Bill, the status quo is fine. As George Williams (2008) points out they are content to rely on the ‘wisdom and good sense of our elected representatives’. This is the shield that is supposed to protect us all. However, it has served the mentally ill not very well in the past. Nor has it secured decent treatment for asylum seekers, including their children. Moreover as Williams again argues recent security panics have led to rights being eroded by instruments such as the Sedition law (Williams, 2008).

The opponents of a Bill of Rights are of course refusing to see the world from the point of view of a homosexual whose love and commitment is valued as less than that of a heterosexual partner. Nor will they see the world from the point of view of a woman who has an unwanted pregnancy. Nor do they wish to view the status quo from the point of view of a First Australian who has to struggle all her life against racism. To approach the debate from these points of view one has to turn to the case for a Bill of Rights.

The Case for a Bill of Rights

I have chosen to approach the Case For in two sections. The first will consider the arguments of White Australians. The second part will look at some of the submissions from First Australian organisations. I turn initially to the 2008 Manning Clark lecture delivered by the well known barrister and Human Rights activist, Julian Burnside QC. This was delivered of course before the setting up of the Brennan Committee and as such is more of a prelude to the debate, but it does contain an impassioned defence of the notion of a Bill of Rights and a trenchant exposition of its necessity.

Burnside begins his lecture with a reference to the Rudd Apology of 24th November 2007 to the Stolen Generations. For Burnside, the Apology was ‘astonishing and uplifting’ and formed ‘some of the noblest and most dignified sentiments ever uttered in that place on the hill’ (Burnside, 2008). He next contrasts the generosity of the Rudd Apology with the Howard years. Here Burnside’s tone is truly withering in its condemnation. According to him, the central problem of the Howard years was a ‘lack of decency’ (Burnside, 2008). This led the Howard government to infringe the Human Rights of the Stolen Generations, David Hicks and the children of refugees.

Burnside then, makes the same move as those who oppose a Bill of Rights. He invites us into a ‘chamber of horrors’. But what we find in this chamber is radically different from the

obsessions of the Right. Burnside is not concerned with the threat of same sex marriage or the inability of the Catholic Church to refuse to hire homosexuals, or that a Bill of Rights is likely to lead to more abortions. Rather he is concerned, with the horrors that come from an abuse of Human Rights and the absence of adequate protection or the power to constrain parliament. Thus he details the grotesque provisions of the anti-terrorism legislation that Howard pushed through parliament. Evidence can be withheld from the accused and the State does not have to explain why they are detaining someone (Burnside, 2008). Burnside also has a good deal to say about how legal aid is available to only a few and this has meant that most Australians, especially women, cannot afford to use the courts to secure their rights.

It is Burnside's discussion of the Bruce Trevorrow case, though, that is most relevant to the concerns of this thesis and it is to it that I now turn.

Picture 8.1: Bruce Trevorrow and his adopted siblings



Source: <http://www.quadrant.org.au/blogs/history-wars/2010/05/the-tragic-life-of-bruce-trevorrow>.

The details of the Trevorrow case are laid out by Burnside who led Trevorrow's legal team in the first successful action by a member of the Stolen Generations. The details are simply horrific. In 1957 the 13 month old Bruce became ill and was placed in hospital. Unknown to his family, he was allowed by the State Aboriginal Board to be taken by a white couple who were anxious to foster a child. They spotted Bruce in the hospital and were taken by his cuteness. When they took the baby home, they were surprised to find that it was a boy. Burnside's comment here is nicely understated:

Such was the informality with which Aboriginal babies could be given away in early 1958 in South Australia (Burnside, 2008).

Bruce's mother wrote to find out what was happening to her son. The Department lied to her saying that he would be coming home soon, even though at the time of writing the letter, he had been already given away. The foster family was not given any guidance on how to raise a First Australian child nor were they checked for suitability.

From this very fundamental denial of a First Australian child's Human Rights, the following ensued. By the age of three Bruce had developed serious psychological problems including a condition known as trichotillomania, in which infants pull out large clumps of their hair. He was diagnosed as depressed, developed a speech defect, chewed his clothing, damaged books and stole.

He was also told by his new family that he was White. His darker skin colour was explained away by references to darker-skinned relatives overseas (Debelle and Chandler, 2007).

Predictably, from this he entered a vicious pipeline of depression and alcoholism and low level criminality. In the meantime, his siblings who had remained with their parents grew up strong in their culture. The denial of Bruce's rights deeply damaged him. Consistently those medical practitioners who examined him commented on his depression and his absence of a sense of identity. Despite this, the State government fought against him all the way. Thus it took eight years for the case to go to court and the trial lasted from November 2005 to April 2006. Bruce died in June 2008 five months after he received compensation. Yet the State refused to waive its appeal for costs. It finally lost its appeal in 2010.

In awarding Bruce \$525,000 compensation plus costs, Justice Gray said:

I find that it was reasonably foreseeable that the separation of 13 month old Aboriginal child from his natural mother and family and the placement of that child in a non-Indigenous family for long-term fostering created real risks to the child's health. The State through its emanations, departments and departmental officers either foresaw these risks or ought to have foreseen them (quoted in Burnside, 2008).

It is important here to realise that Bruce's case is not unique. What was unusual about it was there was still a paper trail which his lawyers could take advantage of (Debelle and Chandler, 2007). Many others are in a less fortunate situation; yet still the Federal government refuses to contemplate compensation for that which they have apologised for.

For the purposes of this thesis cases like Bruce's help to point out the savage personal cost involved in a denial of basic Human Rights. Moreover they also point out that it was the courts and not parliament that delivered something like justice to Bruce. To date, his is the only case of the Stolen Generations to have been settled in favour of the victims of that policy.

Alongside Burnside's defence of the notion of a Bill of Rights we need to place Justice Kirby's (2008) urbane dissertation on that topic to the Law Institute of Victoria. Kirby addresses firstly

the argument that everything is fine in Australia and we do not need a Bill of Rights. He argues rather, that this is a country which has seen 'serious injustices' to women, to First Australians, to Asians and also to religious minorities. He also argues that the notion of a Bill of Rights is not entirely foreign to Australia. There are rights, such as the right to trial by jury embedded already in the Constitution and of course in the common law. The weakness of relying on common law, according to Kirby is however, that it can be easily overridden by parliament (Kirby, 2008, p.9).

It is to the argument that we should leave it to parliament that Kirby next turns. Here he makes some of his most cogent points. He argues for instance that parliament cannot be relied upon to act quickly to bring in needed reforms. Though at times they do respond with overdue haste (Kirby, 2008, p.10). I would argue here that the Northern Territory Intervention is just such an instance. Moreover instead of the horror stories of criminals being fed chicken because of the British Human Rights law, Kirby cites the case where the judiciary reminded the government that 'indefinite detention of people, simply because they were foreigners was inconsistent with basic principle' (Kirby, 2008, p.14).

It is, though, on the relationship of politicians to the media that Justice Kirby makes his most salient point. He claims that the media rejoices in the sway it holds over politicians. The judiciary is much less vulnerable to media campaigns (Kirby, 2008, p.4). Arguably the whole battle over a Bill of Rights in which the Murdoch press campaigned relentlessly against such a bill until the Federal government retreated is a perfect illustration of the point that Kirby is making here.

Brennan (2010) in his summing up of the issues in the debate referred ironically to the characterisation of his committee's proposals as on the one hand being a 'toothless tiger' and on the other a 'Trojan horse'. For Brennan his committee was neither. Rather it was simply dedicated to provide protection for those who did not flourish under 'majoritarian rule' (Brennan, 2010).

What then of the report itself? It painstakingly documented the support that was in the community for some sort of Human Rights Bill (NHRC, 2009). From the point of view of this thesis it is particularly interesting that a separate chapter in the report was devoted to the First Australian issue. What is in many ways disappointing is that the report makes clear many 'participants felt they suffered a form of reverse discrimination and resented the additional benefits First Australians were said to receive' (NHRC, 2009, p.209). To be frank it defies logic that anyone can see First Australians as privileged. Here I refer the reader back to the Introduction and the statistics Tom Calma submitted especially around the issue of First

Australian health. Yet it is clear that the figure of the First Australian as the Resented Other is still alive and well. Nevertheless the report does make a valuable contribution to the Indigenous cause both in recommending a Bill of Rights and in giving voice to the truth that currently First Australians are at the mercy of Parliament (Brennan, 2009b, p.212).

The Indigenous Presentations

These differed in their emphasis on what they perceived as the most pressing problems and what should be done about them. Australians for Native Title and Reconciliation (ANTAR) (2009) stressed the ongoing problem of racism. It wanted the government to acknowledge that this was a problem for First Australians. To combat racism it wanted a Human Rights Bill and the elimination of racism from the government's own policies and programs (ANTAR, 2009, p.2). It also recommended education programs in schools to fight racism and also to educate people on the question of Human Rights (ANTAR, 2009, p.12).

Calma's report concentrated primarily on the current parlous condition of First Australians in a number of domains. We have already canvassed Calma's findings in the Introduction to this thesis. Calma is quite forthright about the conditions of Indigenous Australian people. For his committee, the Howard years were years of 'significant under-achievement in addressing Indigenous disadvantage'. This was especially noteworthy for the fact these same years when the nation prospered as never before (Calma, 2009, p.3).

Of the three submissions I consider here, that of the Foundation for Aboriginal and Islander Research and Action was the most overtly political and radical. Written by Les Malezer, it emphasised Australia's international obligations under treaties such as the UNDHR and the International Covenant on the Elimination of All Forms of Racial Discrimination (Malezer, 2009, pp.5-6). Malezer also argued for a Treaty between First Australians and non-Indigenous Australians (Malezer, 2009, p.3), and redress for previous and current mistreatment (Malezer, 2009, p.11). It is, as Tedmanson (2008, p.152) argues, the very absence of such a treaty or I would add a Bill of Rights, that means that the State is free to declare an emergency or state of exception and the rights of those within the zone can at any time be set aside.

All three submissions were sharply critical of the Northern Territory Intervention pointing out that the ease with which the Racial Discrimination Act was once more suspended was a testimony to how Parliament could not be relied upon to guarantee First Australian Human Rights (ANTAR, 2009, pp.5-7; Calma, 2009, p.19-20; Malezer, 2009, p.12). It is the Intervention that we now address.

The Intervention

We feel, here, that the intervention offers us absolutely nothing, except to compound the feelings of being second-class citizens...we are still reeling from the way the Federal Government wheeled out, or dealt out, the intervention, in a military fashion when Major Chalmers sent out the army, in uniform... Arlparra/Utopia (Concerned Australians, 2010, p.15)

Before dealing in some detail with the implications of the Intervention for First Australian Human Rights, I would like to both endorse the sentiments expressed by Michael Mansell (2007) and to use them as it were to explicitly frame my own approach. Mansell wrote:

It says a lot about Australian that a national government can get away with sending the army in to invade Aboriginal communities. No other group in Australia need fear such a move against it by the government or military: no government would consider such a measure. This highlights the vulnerability of Aboriginal people to the whims of white Australia (Mansell, 2007, p.73).

The origins of the Northern Territory Emergency Response (the Intervention) lie in the publication of the *Little Children are Sacred* report. The authors of the report were required by the Northern Territory government to investigate the sexual abuse of young children. The dynamics that led to the setting up of that Inquiry are in themselves important to understand. Crucial here were the actions of Nanette Rogers the Northern Territory prosecutor, and Western Australian Sue Gordon. Both had drawn attention to the domestic violence that had been inflicted on First Australian women. Leaving to one side their role in the subsequent intervention, they are to be congratulated for their work in highlighting the abuse of women and children. In 2006, the Northern Territory Chief Minister, Clare Martin, responded to the growing coverage in the media, by appointing Rex Wild and Patricia Anderson to conduct an Inquiry.

The report came down in 2007 and contained these lines:

...it is not possible to accurately estimate the extent of child sexual abuse in the Northern Territory's Aboriginal communities.... However the Inquiry has found clear evidence that child sexual abuse is a significant problem across the Territory. This view mirrors that of most of the individuals and organizations with whom the Inquiry has had contact and from whom submissions were received. Given consideration to the wider context within which sexual abuse has occurred (i.e. other child maltreatment and family violence and the general 'dysfunction' of Aboriginal communities), the inquiry's perception is that there has been a

breakdown of peace, good order and traditional custom and laws (Anderson and Wild, 2007, p.58).

The report then gives a series of anecdotes that are too horrifying to repeat. But they can be de-contextualised precisely because of their anecdotal nature. The *something must be done* forces gather. On the First Australian side they include most importantly Noel Pearson and Marcia Langton. Langton as we will see was in particular very strident in opposition to those who to her were determined to pursue 'theoretical definitions of rights', while women and children were suffering (Langton, 2008).

So a full-on crisis was discovered and proclaimed (Hart, 2008). The Bill was rushed through parliament and the Labor Party, fully aware that an election was coming and still smarting from the Hindmarsh Island disaster I suspect, went along in support. It is important to note in this context that, as Behrendt (2007, p.15) and others have pointed out the Bill made no reference to the *Little Children are Sacred* report and none of the reports recommendations were acted upon.

The Intervention abolished the work for the dole scheme, suspended the Racial Discrimination Act and introduced the following 'special measures':

- Income management whereby 50% of welfare monies are quarantined and controlled through the use of a 'basics' card.
- Five-year leases whereby the government compulsorily takes over people's land on leases.
- Alcohol restrictions imposing large fines for possessing alcohol in restricted areas.
- Licensing of community stores.
- Establishment of Government Business Managers in each community.
- Pornography restrictions.
- Control over publicly funded computers.
- Law enforcement measures (Concerned Australians, 2010, p.7).

Paul Hart (2008) has provided a very useful analysis of the politics of the intervention in terms of the dialectics of crisis declaration and management. Before going on to deal with Hart's analysis, I would like to address the sexual abuse of children in a direct way.

Child sexual abuse

In his justification for the Intervention, the then Minister for Indigenous Affairs, Mal Brough had this to say:

It has become clear that we are facing two very different situations in Australia. For most of the country, the parental behaviour the government is concerned about occurs **relatively infrequently** and is limited to a **relatively small** number of families...the second situation involves some remote Indigenous communities where normal community standards and parenting behaviours have broken down (quoted in Rebecca Stringer, 2007; emphasis added).

These however are weasel words, especially the ones I have emphasised. If we go beyond the horrifying instances and make a comparison with another Australian state, NSW (Table 8.1), we find that the Northern Territory situation is **not** as bad as that which obtains in NSW.

Table 8.1: Comparison of Child Abuse Cases NSW and NT (Stringer, 2007).

2005-2006	NSW	Northern Territory
Total of child abuse & neglect cases	28,809	480
Number of cases involving sexual abuse	3,451	27
Number of cases involving sexual abuse expressed as %.	12%	5%

Moreover, we must note here that as the Bringing them Home Report documented, those First Australian children who were taken from their families were ‘in every placement... vulnerable to sexual abuse and exploitation’ (Quoted, in Dodson, 2007, p.86). Dodson also points out that the welfare officers whose duty it was to protect the children they had taken from their parents, failed in that duty and often abused the children themselves (Dodson, 2007, p.87).

The Review of the Intervention (2008) sought to downplay the sexual aspect of child abuse and argued that the main problem was the serious neglect of children. The Review focussed in particular on what it termed the collapse of the Northern Territory Education system. The Review also reported a good deal of community anger at being stigmatised as child sex abusers. The National Indigenous Times in response to the review pointed out that the Child Health Checks had not detected any sexual abuse of children (NTER. Review Board, 2008).

Let me be clear here. It is not now nor has it ever been my intention to down play the problems and indeed the suffering of First Australian children. Yet at the same time, I wish to point out that the framing of the problems of the children and their families, in terms of the child sexual

abuse syndrome, serves to stigmatise those who do not deserve to be treated in that way and also distracts attention from what needs to be done.

The case for: ‘Something must be done.’

The most impassioned defence of the Intervention was put forward in an award winning essay by Professor Marcia Langton in the Griffith Review (2008). This essay was reproduced at www.crikey.com. It is the latter version of the essay which I am working from. Langton begins with a quotation from the late Jean Baudrillard in an article he wrote on the images of the mistreatment of the prisoners of Abu Ghraib (Baudrillard, 2005).

The quotation that Langton uses is as follows:

The worst is that it all becomes a parody of violence, a parody of the war itself, pornography becoming the ultimate form of the abjection of war which is unable to be simply war, to be simply about killing, and instead turns itself into a grotesque infantile reality-show, in a desperate simulacrum of power. These scenes are the illustration of a power, without aim, without purpose, without a plausible enemy, and in total impunity. It is only capable of inflicting gratuitous humiliation. (Baudrillard, quoted in Langton, 2008).

Baudrillard’s essay, whatever one’s reservations about his neo-Nietzschean tendencies to deny reality (Kellner, 2004), does give us a passionately polemical attack on American colonialism. The point of his essay is that the Abu Ghraib photographs represent the moral degeneracy of American imperialism. However, Langton’s use of the essay would appear to have a much different intent. For her it is not the images in the media of the Intervention that are the problem. Rather it is the ‘public debate’ on the Intervention that is ‘an obscene and pornographic spectacle’, which detracts attention from the ‘everyday lived crisis that many Aboriginal people endure’ (Langton, 2008).

Nevertheless, if we return to the original Baudrillard essay and attempt to use it to analyse some of the images that accompanied the Intervention, then a very different picture from the one that Langton is pushing can be seen to emerge. Take for instance the photo below. This is a Life magazine photo where the Minister for Aboriginal Affairs is presumably demonstrating how to consult with a First Australian. But the presence of the microphone betrays the event for what it truly was – a media stunt. If there is an obscenity about the Intervention, it is not *contra Langton*, the public debate or the ‘rhetoric of reconciliation’ that is obscene and pornographic. Rather we find the obscenity in images like Photograph 8.2 which betray all too clearly the

absence of respect, consultation and genuine care for Indigenous Australians that were so characteristic of the long eleven years of the Howard governments.

There are other aspects of Langton's essay which are equally disturbing. Most important of these is her tendency to frame the debate as one between those who care about the women and children and who are for pro-Intervention and those who do not care about the women and children and are therefore anti-Intervention. Equally regrettable, is her attack on First Australian men and her welcoming the Intervention as a 'dagger sunk deep into the heart of the powerful, wrong-headed Aboriginal male ideology that has prevailed in Indigenous affairs, policies and practices for decades' (Langton, 2008).

Picture 8.2: 'ALICE SPRINGS, AUSTRALIA - JULY 06: Indigenous Affairs Minister [Mal Brough](#) (L) talks to an Aboriginal elder from the Mutitjulu community July 6, 2007 in Mutitjulu'.



Source: http://www.abc.net.au/indigenous/stories/images/mal_brough.

Her reference to the 'red, black and yellow warriors' is similarly divisive. As is her refusal to see that the Intervention represented an attack on First Australian rights and to defend these is not to defend the sexual abuse of children. *Au contraire*, it is the argument of this thesis that it is only through an expansion of the rights of First Australians that the misery which now dominates their lives will be alleviated.

The Intervention as crisis politics and a neo-liberal wedge

Though Langton does not explicitly endorse neo-liberalism in her Griffith Review article, she does hint at this in her reference to 'Aboriginal property rights' (2008). However, as we have seen in Chapter Four there is little doubt about her belief in the efficacy of neo-liberalism to being about what she hails as the benefits of modernity (Langton, 2009). Langton's position here is hardly surprising because as Melinda Hinkson (2008, p.6) points out neo-liberalism is the dominant discourse of our time.

Moreover that the Intervention represented a neo-liberal wedge can also be inferred from provisions such as the abolition of the work for the dole scheme, and the removal of the permit system required accessing Aboriginal land (Stringer, 2007). Equally indicative of the neo-liberal mentality was the talk of 'real employment' and 'real jobs' (Manderson, 2008, pp.248-249).

The Review and responses

The promised review of the Intervention was published in 2008. It was sharply critical of the absence of consultation and argued strongly that the relationship between First Australian people and the governments of Australia had to be based on racial equality and respect for the Human Rights of all Australian citizens. The review was particularly critical of the suspension of the Race Relations act and the removal of the permit system (NTER Review Board, 2008).

The review also made the point that the focus on the sexual abuse of children drew attention away from the serious issue of child neglect. It also quoted with approval from the submission by *The Australian* Indigenous Doctors Association. The latter argued that the NTER had:

created a feeling of 'collective existential despair' – feeling characterized by a 'widespread sense of helplessness, hopelessness and worthlessness, and experienced throughout entire communities' (NTER Review Board, 2008).

The report of the Review Board was welcomed by a number of First Australian organisations. Thus the North Australian Aboriginal Justice Agency (NAAJA) commended the report for its recognition of the 'damage caused by the lack of consultation, racial discrimination and humiliation that Aboriginal people have suffered' (NAAJA, 2008, p.2). Similarly, ANTAR saw the report as providing an opportunity to 'refocus' what the Federal government was attempting to do (NAAJA, 2008). In particular ANTAR stressed that:

Unless the Government restores respect to and constructively engages with Aboriginal people in the NT, the community ownership so essential for enabling functional, resilient communities will not be achieved (NAAJA, 2008).

Intervention under Labor

The Rudd government, which was elected in 2007, still saw the Intervention as part of ‘special measures’ allowed under section 8 of the *Racial Discrimination Act* and continued with the suspension of the Race Relations Act. Many people felt the Intervention is racist and discriminatory. At first only First Australian communities were targeted for income management, when the side effects of poverty – alcohol and drug misuse, illiteracy, violence, hopelessness and despair – are common to all peoples on the bottom of their society’s ladder. In response to criticism here of the racial basis of income management, the relevant minister Jenny Macklin announced that income management would be extended to any group living in an area of ‘extreme disadvantage’ (Berkovic and Elks, 2009). Macklin defended this decision thus:

It is a way in which we can make sure that more of people's welfare money is spent on food, on clothes, making sure rent is paid and less money spent on gambling, less money spent buying alcohol (Macklin quoted in Berkovic and Elks, 2009).

For Barry Morris and Andrew Lattas (2010) what is at work here, is the neo-liberal desire ‘to wind back the welfare state or at least create a more tightly policed version of welfare that will continually monitor and refer subjects back to themselves.’ Certainly ideology seems to be at work and as a consequence income management has been staked out as a vital battleground by all participants.

The partly explains Macklin’s (*The Australian*, 2010) attempt to discredit Julie Brimblecombe’s and David Thomas’ (2010) finding that income management had not led to the lower consumption of unhealthy food and soft drinks. Macklin disputed Brimblecombe and Thomas’s methodology but in their reply, they pointed out convincingly that their methodology was much more rigorously quantitative than the qualitative data that Macklin’s office had generated. Altman (2010) describes Macklin’s actions here as ‘extraordinary’. For Altman the work of Brimblecombe and Thomas’ is the ‘only credible research’ we have on the efficacy of income management. Moreover he points out that it was published in the prestigious peer reviewed Medical Journal of Australia.

If we move from health to consider the impact of the Intervention on crime, we find as Altman (2010) shows that in the areas of substance abuse, assaults and drug misuse that incidents and

convictions have all increased. This may be due in part to increased policing, but as Altman (2010) argues this can hardly be the reason why attempted suicides and mental illness have also shown deterioration.

It is true of course that on a whole range of indicators the figures around the amount of contact between First Australians and the criminal justice system is simply horrifying. Thus for instance we know that in Aurukun two decades ago research revealed that 45% of males between 15-19 had been arrested at least once in the year under study and that the figure was 100% for males aged between 20 and 29 (Hunter, 2008, p.206).

However the Intervention seeks to punish the victim, and to deny white Australia's role in the destruction of once coherent, functioning communities. From decades of state neglect comes an onset of state disempowerment and infantilising First Australian people.

Hunter (2008, p.213) has pointed out that the Northern Territory Intervention has demonstrated that there are 'significant limits to Indigenous control and autonomy in Australia'. Moreover the consequences of a further reduction in First Australian autonomy are serious. Here Hunter points to Canadian research (Hunter, 2008, pp.211-212).

In 2003 Michael Chandler, Lalonde, Sokol and Hallet (2003) investigated suicide rates in Aboriginal Canadians in British Columbia. They found that those communities which had the greatest **cultural continuity** had fewer suicides. They measured **cultural continuity** in terms of:

- Self government
- Litigation over Land Rights
- Control over education
- Control over health
- Control over police
- Ownership of cultural facilities

This actually runs counter, as we have seen in Chapter Five, to the right wing argument that the problem in First Australian communities has been caused by the Human Rights and self-determination movement. This latter argument has been put, as we saw in Chapter Five, most forcibly by Sutton (2009) in his *Politics of Suffering*.

Summing Up the fallout From the Intervention

In an extremely critical editorial, the *National Indigenous Times* claimed that in launching the Intervention, the Howard government had been looking for a political stunt to boost its re-election hopes. The editorial also dismissed out of hand Howard's credentials as someone who cared about First Australian children, citing his 'cutting of funds for women's shelters, night patrols and kids programs' (*National Indigenous Times*, 2009). Most importantly for the purpose of my thesis was the editorial's verdict on the intervention that there is 'a complete lack of evidence that the removal of Human Rights can assist in building positive health outcomes' (*National Indigenous Times*, 2009).

I am in complete agreement with the latter point. Moreover, I would add that as John Chesterman and Heather Douglas (2009) pointed out the Intervention restored race as a 'marker of racial inferiority' in Australian politics. In addition it has resulted, not in the provision of solutions to the problems of First Australians, but rather as Chesterman and Douglas (2009, pp.81-82) put it, in a focus on the 'unworthiness of the people being targeted'.

That such unworthiness is not true can be seen in William Fogarty and Megan Ryan's (2007, pp.263-272) sympathetic account of Maningrida community which featured in three terrible sexual abuse scandals. They document that the community has developed a unit to protect the children and that this is recognised as best practice in this area (Fogarty and Ryan, 2007, p.266). Altman and Hinkson talk here of experiencing 'the searing lights of the women's night patrols that were policing the town on a nightly basis' (Altman and Hinkson, 2007b, p.vii).

Fogarty and Ryan also attempt to show what is positive and strong in Maningrida. Thus they talk of the Bawinanga Aboriginal Corporation which in 2006 had a turnover of \$26 million. The point of Fogarty and Ryan's article is not to say that there are not problems but that any attempt to help Maningrida needs to be based on 'existing strengths, not imagined futures' (Fogarty and Ryan, 2007, p.266). Above all they stress, more in sorrow than in anger, the following:

Decades of global research concerning Indigenous development has been consistent in its finding that for sustained success, initiatives must be participatory, locally driven and cognisant of Indigenous aspirations (Fogarty and Ryan, 2007, p.264).

These words could stand as an epitaph for not only the Intervention but for so many of the non-Indigenous Australian initiatives in the area of policy, health, education.

It is now three years since the Intervention. It is of course too early to attempt to estimate the long term damage to First Australian Australia. In 2007 Patrick Dodson complained that the Intervention denied First Nations status to First Australians and that we had been characterised by the media and government ideologues as 'sexual deviants and sociopathic automatons' (Dodson, 2007, p.22). The years since Dodson made that complaint have not brought much improvement.

Moreover, as Andra Jackson (2010) points out, for the proud Gurundji at least the experience of the Intervention has been a deeply humiliating one. As Jackson tells us Peter Inverway grew up with tales of the heroic endeavours of Vincent Linghari and other Gurundji, as we have seen in Chapter Five, to break with the cruelly exploitative system of paying First Australian stockmen in rations. However Federal intervention has seen Peter go from earning \$1200 a week on the railway to working a 30 hour week at an arts and crafts centre (Jackson, 2010).

In addition as Jackson points out:

Every fortnight, Centrelink pays \$250 into his bank, his 'choice' money and \$150 is paid into a Basics Card [rations] with kindergarten-style drawings of what it can be spent on - clothes, food, health items and hygiene products (Jackson, 2010).

The ritual of humiliation is very real for Peter, and, whatever the 'something must be done' brigade think, no good can come from this humiliation of my people.

Conclusion

In this chapter I have sought to illustrate with three case studies, the Hindmarsh Island affair, the battle for the Bill of Rights and the Northern Territory Emergency Response, just how easily the Human Rights of First Australians can be swept aside. I have maintained as well, that in all three instances, the result of the disregarding of First Australian rights has been a diminution in the well-being of my people. Arguably, what has been at work in all three instances I have claimed could be interpreted as a return to the Hasluck policy (Chesterman and Douglas, 2009, pp.69-70) of disregarding of 'race' and of treating First Australians as the Same rather than the Other (Manderson, 2008). However, while I reject totally the category of race, I also reject any attempt to treat us as the 'Same'. I would point out as well that as Manderson puts it, 'Equal treatment perpetuates inequality every time it purposely turns a blind eye to social and material differences' (Manderson, 2008, p.234). In the next chapter we move from a consideration of the impact of the ignoring of Human Rights at the macro and institutional level, to a consideration of the personal case histories of three Aborigines, who I will argue have been the victims of the denial of their Human Rights.

Chapter 9. The frontier is dead. Long live the frontier

Le Loup et l'Agneau

La raison du plus fort est toujours la meilleure :
Nous l'allons montrer tout à l'heure.
Un Agneau se désaltérait
Dans le courant d'une onde pure.
Un Loup survient à jeun qui cherchait aventure,
Et que la faim en ces lieux attirait.
Qui te rend si hardi de troubler mon breuvage?
Dit cet animal plein de rage :
Tu seras châtié de ta témérité.
- Sire, répond l'Agneau, que votre Majesté
Ne se mette pas en colère ;
Mais plutôt qu'elle considère
Que je me vas désaltérant
Dans le courant,
Plus de vingt pas au-dessous d'Elle,
Et que par conséquent, en aucune façon,
Je ne puis troubler sa boisson.
- Tu la troubles, reprit cette bête cruelle,
Et je sais que de moi tu médis l'an passé.
- Comment l'aurais-je fait si je n'étais pas né ?
Reprit l'Agneau, je tette encor ma mère.
- Si ce n'est toi, c'est donc ton frère.
- Je n'en ai point. - C'est donc quelqu'un des tiens :
Car vous ne m'épargnez guère,
Vous, vos bergers, et vos chiens.
On me l'a dit : il faut que je me venge.
Là-dessus, au fond des forêts
Le Loup l'emporte, et puis le mange,
Sans autre forme de procès.

(Jean de La Fontaine, 1668)

Medicine Formula

When thee new moon appears it is shouted to:

I shall prosper,
I shall yet remain alive.
Even if people do say of me,
'Would that he died!'
Just like thee shall I do,
Again shall I arise.
Even if all sorts of evil beings devour thee,
When frogs eat the up,
Still dost thou rise again.
Just like you will I do in time to come.
Bo!

(Takelma Indian song Translated by Edward Sapir, 1907).

Introduction

In this chapter I outline and analyse three instances where I will argue the Human Rights of First Australians were violated with disastrous results for the health and well-being of the individuals concerned. The choice of the individuals concerned was motivated by the nature of the institutional apparatus which, I will argue, violated their rights. In the first of these, May Dunne, the institution involved was a university, Queensland University of Technology (QUT). In the case of the second, Lex Wotton, the institution was the state legal / penal system. The third case deals with the fate of Lyji Vaggs, a First Australian at the hands of the mental health system (Herbert, 2010; Schwarten, 2010).

The aim of this chapter is not only to strengthen the case for Human Rights legislation in Australia. It also seeks to ask to what extent have we by passed or transcended the ethics and practices of the Frontier. Tom Griffiths has argued that the frontier is 'a phenomenon supremely designed to undermine the rule of law and the legal method' (quoted in Finnane and Richards, 2004, p.2). In their scholarly study of the ineffectiveness of the mechanism of the inquest in creating accountability in colonial conditions, Finnane and Richards (2004, p.28) conclude that the ineffectiveness was due to the dominance of the imperative of completing 'dispossession and securing the boundaries of the Empire'. It is the argument of this Chapter. in particular that the three cases outlined suggest that the dominant imperative is still alive and doing evil work.

The Frontier Again: The May Dunne Case

It was indeed gratifying that the 2006 incident, where Northern Territory police put up on Youtube a video of an inebriated First Australian man in Katherine, whom they had compelled to perform for their amusement, provoked a good deal of outrage. It is deeply saddening however those incidents which smack of the ethics of the Frontier still continue to happen in the 21st Century.

Picture 9.1: A still from the video showing the indigenous man, "Chappy", singing and dancing with a police officer nearby



Source: NT News: http://www.ntnews.com.au/article/2009/01/27/29685_ntnews.html.

The case itself as reported is simply disgusting. The tape can unfortunately still be viewed at http://www.liveleak.com/view?i=829_1233117143.

The following is a transcript of a report of the event:

Alice Brennan reports.

(Sound of man singing)

ALICE BRENNAN: The video shows an Aboriginal man lying on the ground singing, the *Rivers of Babylon*.

He's then dragged to his feet by a police officer and told to sing and dance for the camera.

(Excerpt from video)

POLICE OFFICER: Do a dance fella.

(End of excerpt)

ALICE BRENNAN: He's then told to sing happy birthday and the officer behind the camera laughs (Brennan, 2009a).

Here the First Australian is being turned into the Comical Other and his dignity as a human being is being compromised by those whose duty it should be to safeguard it.

A similar incident occurred in South Africa in 2007. There a group of four white students at the University of the Free State forced five black staff to perform humiliating acts, including eating until they vomited food which seemingly had been urinated on. They have claimed that their actions were motivated by a desire to protest against the 'racial' mixing of their university (BBC News, 2010). The video of the rituals that they made their victims undergo was posted online. The case has only now come to trial, but at least it is before the courts, which is more than can be said for the NT incident.

Deeply disturbing as the NT and the South African incidents where there is yet another instance of the same gross exploitation of people of colour, specifically First Australian people, and one which I as an academic find in some ways even more distressing than the actions of the Northern Territory police. I refer to the May Dunne case (Dibben, 2007; Lane, 2008). This affair was more disturbing than the NT incident because it involved not poorly educated rogue policemen but here, just like the University of the Free State, the May Dunne incident involved a mature aged postgraduate student from QUT, a university which aspires to lead Australia in the field of research and also in the domain of Reconciliation between First Australians and Non-Indigenous Australians. In terms of Reconciliation QUT developed a policy in 2001. It says:

QUT recognises:

- That Indigenous Australian people are the custodians of the land, and a traditional association with the land in accordance with their laws and customs.
- That this traditional association with, and respect for, land sustains Indigenous cultures, languages, spirituality, art, law, and all other aspects of life treasured by, and held sacred to, Indigenous Australian people.
- The social, political, economic and education disadvantage experienced by Indigenous Australian people as a result of a history of colonisation, dispossession, and unjust legislation, policies and practices.
- The importance of Indigenous cultures to Australia's heritage and the dynamic contribution made by Indigenous Australian people to the community and to the University.

- The rights of Indigenous Australian people to self-determination, to equitable participation in the community and the University, to equitable access to resources and services, and to be treated with respect.
- The significance of the reconciliation process in building new relationships between Indigenous and non-Indigenous Australian people.

With regard to Research QUT committed itself to:

Encourage appropriate and beneficial research of Indigenous issues, ensuring the research is developed in partnership with Indigenous communities and is conducted in accordance with relevant Indigenous protocols and ethical guidelines (QUT, 2001).

However, as events unfolded the noble and worthy aims of the above Reconciliation statement seem to have been lost or compromised. Briefly PhD student Michael Noonan filmed May as part of his project entitled *Laughing at the Disabled: Creating Comedy that confronts, offends and entertains*, which he successfully presented for confirmation in 2007. The scene involving May was the culmination of a narrative where two disabled men, Darren and James, were supposed to set off to Boulia to investigate the Min Min lights and to find a girl friend for James. May was filmed inebriated and cuddling James the young autistic man.

The sequence was shown to the public at Noonan's PhD confirmation. Noonan subsequently put it up on the Courier Mail's website. May was alerted to this by a First Australian friend Ted Watson and when she finally saw the footage in the Boulia library, she signalled that she was profoundly shamed by the film and wanted an apology and compensation. First Australian Elder Ted Watson was granted the power of attorney by May to act on her behalf.

The matter was brought before the HREOC which decided to mediate the charge of racial vilification brought by May's lawyers against QUT. Mediation was prolonged and during it May had to go to hospital for an operation for a heart complaint. Watson has said that the stress of the case greatly affected her health especially as mediation initially failed and the affair become very protracted (Healy, 2011).

For a university to be involved in a case of racial vilification should of course have very grave implications for the future of the Vice Chancellor, Peter Coaldrake, and indeed the entire university council.

How did this sad state of affairs arise? Noonan had embarked on a commercial enterprise to film the peripatetic adventures of Darren and James prior to Noonan's enrolling in a PhD

program at QUT. This was a series designed to be sold to television. QUT came on board after the filming at Boulia had taken place. So QUT would have had access to everything that Noonan filmed at Boulia and equally importantly, all the required documentation such as consent forms. Yet it can scarcely be believed that the relevant authorities at the university fulfilled their duty to advise Noonan of the ethical protocols involving research with Indigenous Australians.

The six core values of any research involving First Australians and Torres Strait Islander peoples are 'Reciprocity, Respect, Equality, Responsibility, Survival and Protection (Australian Vice Chancellors Committee (AVCC, 2007, p.69). Specifically the guidelines require with regard to research merit and integrity that the researcher show that the 'research methods are respectful and acknowledge the cultural distinctiveness of discrete First Australian and Torres Strait Islander communities' (AVCC, 2007, p.70). In terms of justice, the guidelines also specify that the researcher should 'seek to identify any potential negative consequences of the proposed research design processes, to monitor them, and to advise steps for minimising them' (AVCC, 2007, p.70). With regard to beneficence the researcher is required to 'include the enhancement or establishment of capabilities, opportunities or research outcomes that advance the interests of First Australians and Torres Strait Islander people'. Moreover the guidelines, require that the 'described benefits from research should have been discussed with and agreed to and considered fair by those participants' (AVCC, 2007, p.70). Besides these requirements, the researcher are expected to demonstrate evidence of respectful engagement with First Australians and Torres Strait Islander Peoples (AVCC, 2007, pp.70-1).

The guidelines here are quite clear. However, Watson's account of what happened in the pub at Boulia would indeed seem to be at total variance with the letter and the spirit of the ethical guidelines. According to Watson (2007), Noonan and his team arrived in the pub at Boulia and began filming without telling anyone what they intended.

Watson's reaction was typical of many First Australian people who viewed the film and on the YouTube clip his anger and indignation is palpable (Watson, 2007). In an interview he said the following :

She [May] is a tribal woman from the Northern Territory and is a decent caring grandmother of 52 years of age...She had too much to drink when Mr. Noonan filmed her, but this is an exception for her.

On Noonan's film she comes across as the stereotypical drunken Indigenous woman that white people love to portray (Watson, quoted in Dibben, 2007, p.36).

It would seem that the methodology involved in Noonan's project is similar to that employed in wildlife films. There as J. S. Katz (2002) points out:

...animals that would normally never be found in close proximity to each other in the wild are brought together to fight...Wildlife films show nature 'close-up, speeded up and set to music with reality's most exciting moments highlighted and its boring bits cut out' (Katz, 2002, p.69).

The imperative behind Wildlife films is to make money through entertainment, which is what the project *Laughing at the Disabled* was designed to do. Animal Rights activists have successfully challenged the way animals were treated in wildlife films (Katz, 2002). Did QUT display the same level of concern for a First Australian that Animal Rights Activists have shown for animals? Whatever the answer, it cannot seriously be claimed that Noonan's involvement with May Dunne was designed to bolster respect for First Australians and to advance their well being and Human Rights.

Despite the obviously controversial nature of a project which avowedly set out to 'confront and offend. Noonan obtained ethical clearance from QUT at the lowest level of scrutiny and when objections were lodged with QUT this decision was re-endorsed. Two academics, Dr John Hookham and Dr Gary MacLennan, who raised objections, were to pay with their jobs for their courage in defending a First Australian.

It is then to be deplored that QUT on 24th September fielded a public complaint by saying that May's involvement was 'incidental' and that a university audit of the project 'found that appropriate consent arrangements for incidental participation during filming had been implemented' (quoted in Watson, 10 July, personal communication, 2010). This ignores the centrality of May, to the narrative of 'finding James a girl friend'. Nor did it help May or alleviate her shame in any way to be told she is 'incidental' (Healy, 2011).

May and her partner Richard Saunders also filled in statutory declarations to the effect that they had not signed permission slips for Noonan to use the film (Dibben, 2007). Noonan, however claimed that they had indeed given permission in writing. He said:

They've accused me, multiple times, of forging her signature (on a consent form for the project),' he said. 'How would I even know what her signature looked like? It's crazy. I always get consent forms (Noonan quoted in Lane, 2008).

Despite Noonan's disavowals May reminded adamant that she had signed nothing and that the claimed signature was not genuine (Healy, 2011). It is understood moreover that forensic

evidence by the international expert Greg Marheine, was produced by May's legal team with regard to the signature and that this concluded that Noonan had not supplied a true signature on the consent form (Healy, 2011)

In any case at no stage did the NHMRC or any academic at QUT indicate how the filming of May would be of benefit to her or her family or her community. In other words, it appears that all of those who should have safeguarded the ethical standards of research involving First Australians failed to do so. One may well then ask in this case - what is the difference between what QUT doctoral student and his supervisors have done, and the actions of the racist students from the University of the Free State or the rogue police officers in the NT? In all three cases the privacy and reputation and the Human Rights of a First Australian and a person of colour has been violated through the use of the internet. In all instances, the worst stereotypes of First Australians and a people of colour as drunken fools were once again perpetuated for the benefit not only of the perpetrators but also a potentially world wide audience. Again, in all three cases the First Australians and the person of colour were constructed as the Comical Other.

As someone who has struggled for a lifetime to lift my people up, it has been nothing less than heart breaking to see a university sink to such a level. I must admit here, that I was not surprised at the actions of the students in South Africa. I have visited that country as a guest of the former President Nelson Mandela and am very aware of the history and the continued racist tensions that lurk beneath the surface. Nor to be frank was I overly surprised at the actions of the Northern Territory police. But I was shocked at the role of QUT in the May Dunne case.

As an academic, I am of course aware of the financial pressures on universities. I can then well understand QUT's eagerness to get involved in a commercial enterprise. But I do not excuse anyone who would compromise ethical standards for university research involving First Australians especially if this is undertaken in order to achieve commercial gain.

In 2009 May's quest for justice ended with a private settlement between QUT and her. The details of that settlement are confidential. Whatever the details of the settlement, the matter still remains a reminder that the threat of a resort to the court system was needed to protect May's Human Rights, despite the public pledges to do so from the NHMRC and the academic authorities at QUT.

In this brief account I have endeavoured to set the treatment of May in the context of two other similar cases, the baiting of a First Australian man by NT police and the ritual humiliation of Black men by White South African Students. I also sought to show how that QUT's own professions of desire to advance Reconciliation had been violated and as well university ethical

standards had been compromised. I then compared the methodology used in Noonan's film to that employed in wildlife films.

I will now proceed to analyse the case of Lex Wotton. However before doing so, I would like the reader to meditate on the proposition that what happened to May Dunne could not have happened to a Non-Indigenous woman without considerable outrage from feminists. I would also like to advance for consideration, that what happened to a First Australian man, Mr Ward, could not have happened to an animal without someone being prosecuted. Mr Ward died, after being locked in a police van, where the temperature was over 50 degrees centigrade. Yet the police officers involved have not been charged, although the coroner had found their evidence to be untruthful (Ackland, 2010). Truly we, First Australians, have a long way to go before our Human Rights are taken seriously.

The Lex Wotton Case

It is necessary, in order to make the majority of the community understand the urgent necessity for reform, to dispense with apologetic paraphrases. This, in plain language, is how we deal with the Aborigines: On occupying new territory the Aboriginal inhabitants are treated in exactly the same way as the wild beasts or birds the settlers may find there. Their lives and their property, the nets, canoes and weapons which represent as much labour to them as the stock and buildings of the white settler, are held by the Europeans as being at their absolute disposal. Their goods are taken, their children forcibly stolen, their women carried away, entirely at the caprice of the white men. The least show of resistance is answered by a rifle bullet; in fact, the first introduction between blacks and whites is often marked by the unprovoked murder of some of the former – in order to make a commencement of the work of 'civilising' them. Little difference is made between the treatment of blacks at first disposed to be friendly and those who from the very outset assume a hostile attitude. As a rule the blacks have been friendly at first, and the longer they have endured provocation without retaliating the worse they have fared, for the more ferocious savages have inspired some fear, and have therefore been comparatively unmolested (The Queenslander, 1880, p.3).

Picture 9.2: Lex Wotten speaking publicly before being incarcerated



Source: http://www.google.com.au/imgres?imgurl=http://homepage.mac.com/will_owen/iblog.

Picture 9.3: A justice rally in the early 2000's



Source: Personal collection

I have already spent some time engaging Keith Windschuttle's benign reading of the Frontier. However the lengthy quotation from *The Queenslander* does contain an element which I believe might help Non-Indigenous Australians to understand the significance of the Lex Wotton case. Unpalatable as it may be to some, there is within the living memory of First Australians an understanding that non-Indigenous Australians will only pay heed when there is militant resistance. Indeed it is safer to be militant than to be cooperative. It is in this fact that one can find an understanding of the Palm Island riot of 2004.

The case of Lex Wotton is inseparable from that of the death in custody of Cameron Doomadgee (Mulrunji) on the 19th November 2004. I will quote here from an official inquiry:

On 26th November 2004, the results of the first post-mortem, performed at Cairns Base Hospital mortuary were released at a large community meeting on Palm Island, showing that Mulrunji had four broken ribs, a ruptured spleen and a liver 'cleaved in two'...The community meeting heard that the 'initial investigations could not exclude that the cause of the deceased injuries was an accident'...A riot then erupted involving up to 300 residents (CMC, 2009, p.2).

The course of the riot was fairly predictable. At the police station rocks, bricks, and other objects were thrown. The police it seems feared for their lives and they were prepared to shoot to kill (Watson, 2010, p.8). A particular target for their fear and willingness to use arms was Lex Wotton. The latter was designated as the leader of the riot and was to be put on trial and sentenced to prison. He is currently out on bail and must live for four years under the most strict bail conditions which preclude him talking to the media or attending gatherings. His lawyers are taking his case to the High Court in August 2011. They are trying to get the bail conditions set aside and his civil liberty and his Human Rights restored.

Let me be clear here. I am not condoning the practice of rioting, but I reject the tradition which refuses to see riots as understandable responses to extreme situations. The people of Palm Island knew what occurred at the jail watch house. They and many other Australians are convinced that Sergeant Hurley murdered Mulrunji. No other verb can convey their certainty. In any case the evidence is crystal clear, not to mention the role played by the other officers in attempting to frustrate the course of justice. They were to receive a slap on the wrist even though their guilt was established.

The people of Palm Island were to fully endorse the coroner's, Christine Clements' findings 'I conclude that these actions of Senior Sergeant Hurley caused the fatal injuries' (quoted in Waters, 2008, p.179). Then they were told there would be no prosecution. Suddenly we were back at the frontier and there was no 'Justice' only 'Just Us' as we First Australians put it when we are confronted with yet another instance of the operation of the Frontier mentality.

The bail conditions that have been imposed on Lex Wotton make it very difficult to fulfil the mission of this thesis and give a voice to the marginalised First Australians. But in the circumstances it is necessary to make that attempt. I have chosen to do so by engaging with the principal accounts of the riot and Lex's role in it. These are Hooper (2008), Waters (2008) and Watson (2010). All three make an effort to place the events of the 26th of November in context.

Watson, I feel, is most successful because of her detailed knowledge of Palm Island. Thus she clearly understands the role of the police emergency teams in not only their international counter terrorist context but also through the prism of the 1957 strike and the way the police

handled that. Thus she is anxious to create continuity rather than a rupture and in that I feel she captures the essence of an Indigenous perspective on events.

Waters' account is for me somewhat compromised by his reaction to the violence of the riot. His description of the meeting, which led to the riot is extremely dramatic. He sets it within the context of failed leadership by Erykah Kyle, the mayor, and David Bulsey. Kyle appeared to endorse the autopsy report's finding that Mulrunji had died through a fall (Waters, 2008, p.74). These views were increasingly challenged by the crowd.

Waters' description of the intervention by Lex is significant. He writes:

Wotton was visibly angry, and he **played** the crowd to much more effect [than David Bulsey] (Waters, 2008, p.75, my emphasis).

The suggestion here is of manipulation. It is I would suggest this very mentality that was to find Wotton guilty. What Waters' fails to understand is that he is not dealing with a manipulative orator but a First Australian warrior, one who stands in a long tradition of First Australians who have fought against the imperatives of the conquerors.

However if Waters' was to see Wotton as a manipulator and the Feared Other, it is Chloe Hooper's contribution that she sees partly as the Exotic / Erotic Other and also as the Feared Other. Thus she writes of him:

Now the adult Lex has the muscular, v-shaped torso of a man who works out. He has scars running from shoulder to armpit on both sides, legacies of football and fighting (Waters, 2008, p.64).

It is this emphasis on Wotton's body that betrays an inability to see him as a leader attempting to respond to an injustice being committed against his people. Though my nephew Ljgi Vaggs was never able to fulfil his early promise and become a leader of his people, the tragic and indeed irregular circumstances surrounding his death still need to be recorded and responded to. So it is to that task that I now turn.

The case of Lyji Vaggs

Writing about the life and death of my nephew Lyji Vaggs is particularly hard. As a boy he had, as I have said, so much promise. He was interested in surfing, athletics, football and swimming. Not only was he interested, Lyji also excelled.

He was so infectious. He was very close to his grandmothers Pamela Vaggs and Lillian Lampton. Sadly his father was killed in a motor cycle accident on the 20th May 1984.

Certainly, he was a bright boy who did well at school. Not only did he do well at sport he also won a science prize at Chinchilla State High. We were all so proud of Lyji's academic achievements. Even more I think than when he represented the school in athletics and rugby.

He was accepted into university to do teacher training but went to Townsville and did not pursue his education further. His family had a hope here that Lyji would go into teaching and that he would become for Indigenous children what my teacher, Mr Stewart, had been for me – a source of inspiration and pride. His friends, though, at Townsville were unemployed and it was an easy option for Lyji to drift into that twilight world of street drugs and petty crime.

He also developed schizophrenia. This is a most difficult condition. World wide it affects about 1% of the population. There are though pockets of high incidence. It is now treated with a range of medications. However, the patient must take these medications regularly. There is a syndrome where the patient takes the tablets and feels better and stops taking the tablets and has a relapse. Lyji fell into this pattern. It is also likely that his condition was exacerbated by drug taking.

Nevertheless, Lyji never quite lost the spark to improve himself. Though he had become grossly overweight, he still could think of a different and better life. So just before his death he became interested in getting a trade. His partner Stacey Somerville and his family supported him in this plan. He wanted to get back with his paternal grandmother and sort his life out and take up a trade. Teaching was no longer an option because of his police record. If Lyji could only have made this step, then I am convinced he would be alive today.

That was not to be. On the 12th April he showed up at the Townsville Hospital feeling unwell and complaining that his medicines were not working. He was hearing voices and consequently was somewhat agitated. Voices in schizophrenia can play a command role, generally instructing the sufferer to harm himself. To the person who is going through a psychosis these voices are real, as real as the computer I am working on now. Unfortunately, when Lyji presented himself as a voluntary patient at the hospital, there was no bed. So they gave him valium to take and sent him home. This treatment is worse than useless. Valium does not control psychotic delusions. It was later noted though, that subsequent to going home, Lyji smoked marijuana on the 13 April 2010.

He was also advised on the 13th that a bed had become available. The Critical Assessment Treatment Team (CATT) was sent to bring him in. He was with family members and though he displayed reluctance to go, they managed to persuade him that he should go to receive treatment. The family members accompanied him in the car. Unfortunately, in the car he

seemed cheerful, so they thought they were no longer needed and they got out and did not go to the hospital.

When he got to the hospital, he objected to voluntary admission. He became agitated and struck a medical student. An alarm was sounded and other staff and security guards arrived. The police were also contacted and four constables arrived at 15.31 hrs. The police report that when they came six to eight hospital staff was holding him down and he was still struggling, singing Happy Birthday and saying he was a woman. An involuntary restraining order was signed. Lyji was then injected with anti-psychotic drugs.

After he had been in a prone position for about 50 minutes it was noticed that he had collapsed. The hospital staff then tried to resuscitate him. This was apparently successful, but Lyji was brain dead and the life support systems were turned off the next day with the consent of the family. We were all deeply distressed and very angry.

For me personally, this was a very bitter draught, yet another death in custody, yet more media hammering to my door; yet more inquiries. Yet more of *plus ça change plus c'est la même chose*. W.B. Yeats (1916) wrote:

Too long a sacrifice

Can make a stone of the heart

Oh when may it suffice? (Yeats, 1916)

That is how I feel at the spectacle of the seemingly endless procession of my people who have died while 'in care' or custody.

The family have taken legal action against The Townsville hospital and the Queensland Government. The case is due to go to court following the inquest. An internal hospital inquiry has been held and while details are still confidential, it is believed that this inquiry was extremely critical of the hospital's role in this tragedy.

The focus of the criticism would appear to be three fold. The medical procedures that were carried out were simply inappropriate for an acute psychotic emergency situation, which this was. In such cases there is an imperative to de-escalate, but the medical student, who was struck may not have been aware of this. The medication administered during the emergency seems likely to have done nothing to sedate Lyji, because it is so slow acting and rather it served to make matters worse, as it had a deleterious effect on his heart and breathing.

Moreover, the medical team was quite junior and they seemed to have yielded the situation to the security staff and the police. It was absolutely imperative that the situation still be viewed as a medical one. Yet while Lyji was held down for 50 minutes, his vital signs were not monitored. The fact is that, this is an extremely dangerous position to be in while suppressive medication is being administered.

The incident also took place away from a possible seclusion zone, so there was no non-medical alternative readily available. In any case, it appears there was no plan to follow up in terms of treatment. The sole focus was apparently on restraint.

The hospital is also aware of the Indigenous dimension to this situation. It is probably that there will be a new emphasis on cultural safety. Given there has been 40 years of community advocacy, cultural safety will be very welcomed. There is now a realisation that First Australian people can feel very threatened while being taken into 'custody' or 'care'. Unfortunately, there is at the time of writing, there is no Indigenous Mental health worker employed by the hospital to assist the CATT in its dealing with the Indigenous mentally ill.

Lyji's medications should have been reviewed, but it is my understanding they were not. Moreover, there needs to be an awareness that the treatment of schizophrenia requires more than the prescription of medications. There must be a concerted effort to improve the quality of life of the patient. There were no mechanisms in place to achieve this.

Lyji died in 'care' on the 15th of April, 2010. He was 27 years of age. May he rest in peace, in the Dream Time, with his Ancestors.

Conclusion

The cases of May Dunne, Lex Wotton and Lyji Vaggs reveal, I would argue, that when First Australians come into conflict with key Western Institutions, the laws and procedures of those same institutions, can be laid aside. In so doing, we have a return to the imperatives and values of the Frontier. The life of a First Australian becomes less than that of a Non-Indigenous Australian. The repeated inquests and inquiries around the Mulrunji tragedy surely, make that especially very clear. It is my contention once again, that a Bill of Rights is needed to protect Indigenous Australians, who have occupied this land, for over millennia. Indigenous and non Indigneous peoples in this country cannot reconcile without truth, healing and justice.

Chapter 10. Conclusion

"In South Africa we are having reconciliation with the truth; in Australia they are trying to have reconciliation without the truth" Nelson Mandela (personal comment 1997).

I began this thesis by affirming that it was been written in a period of great change in terms of what is called 'Aboriginal Policy'. It will hardly come as a surprise to the reader, when I say that I prefer to think of 'Aboriginal policy' as meaning how White Australia imagines, talks about, writes about and acts towards and upon First Australians. Whatever the case, much of the relevance of my thesis is that it does come at a period of policy turn. This in characteristic style has been hailed by Gary Johns of the Bennelong Society – a society, which as Richard Trudgen points out, is named after one of the saddest victims of British colonialism (Trudgen, 2010).

Johns and the society's founder the late Peter Howson (Pearson, 2009) remained either unaware or indifferent to the facts of Bennelong's life. Johns, like most Right Wing commentators, has chosen to attack the period of 1970-2006, as one where the 'long-run process of absorption and integration of the Aboriginal people, which commenced at European settlement' (Johns, 2006). Words almost fail me here, at this bold-faced attempt to rewrite out of history of the suffering of my people, by yet another shameless, apologist for colonialism.

Colonialism has been defined by the German academic Jürgen Osterhammel as:

...a relationship of domination between an Indigenous (or forcibly imported), majority and a minority of foreign invaders. The fundamental decisions affecting the lives of the colonized people are made and implemented by the colonial rulers in pursuit of interests that are often defined in a distant metropolis. Rejecting cultural compromises with the colonised population, the colonizers are convinced of their own superiority and of the ordained mandate to rule (Osterhammel, 1995, pp.16-17).

Colonialism, is then a structure of exploitation and domination and like all such structures, it rests necessarily on a fundamental layer of 'dirty business'. In Bhaskarian terms, this can be formulated as Colonialism depending on relations based on what he has termed Power. The distinction here is between Power₁- the ability to act on the world, i.e. agency and Power₂ i.e. relations and structures of domination, exploitation and oppression (Bhaskar, 1993, 60). The 'dirty business' or the Power₂ relations of colonialism, include 'assassination', 'torture', 'rape', 'ethnic cleansing' and 'cultural genocide'. These, have all been inflicted on my people, the First Australians.

No doubt, the defenders of colonialism do not present it like that. This thesis is being written at a time of the revival of the defence of colonial ideas and practices (D'Souza, 2002; Ferguson, 2003; 2004; 2006; Johnson, 1993; Mallaby, 2002). All these writers construct colonialism as an enlightened response to world chaos. Here they ignore the truth that, as the economist Henry Liu (2003a) presents it, 'a stable world order cannot be constructed out of fear of precision bombs or tactical nuclear weapons, or with economic sanctions'.

They are apologists for world domination, attribute their success to the invention of 'science, democracy and capitalism' (D'Souza, 2002). Moreover, the model of capitalism they advance is a Weberian one, where the key dynamic is seen to be a clash between rational modern culture and tradition. Moreover, they are anxious to sweep under the carpet the ugly face of capitalism and to hide the fact that as Marx presents it:

If money, according to Augier, 'comes into the world with a congenital blood-stain on one cheek,' capital comes dripping from head to foot, from every pore, with blood and dirt (Marx, 1867, p.346).

For those who today champion colonialism and choose to pose, as Rudyard Kipling did in 1899, interestingly at the beginning of the long decline of British Imperialism. I will deliberately quote his poem in full to expose the self-pitying, whining tone of the old British Imperialism, as it makes way for the new American Imperialism that was to dominate the 20th and 21st centuries:

Take up the White Man's burden—

Send forth the best ye breed—
Go bind your sons to exile
To serve your captives' need;
To wait in heavy harness,
On fluttered folk and wild—
Your new-caught, sullen peoples,
Half-devil and half-child.

Take up the White Man's burden—

In patience to abide,
To veil the threat of terror
And check the show of pride;
By open speech and simple,
An hundred times made plain
To seek another's profit,
And work another's gain.

Take up the White Man's burden—

The savage wars of peace—
Fill full the mouth of Famine
And bid the sickness cease;
And when your goal is nearest
The end for others sought,

Watch sloth and heathen Folly
Bring all your hopes to nought.

Take up the White Man's burden—
No tawdry rule of kings,
But toil of serf and sweeper—
The tale of common things.
The ports ye shall not enter,
The roads ye shall not tread,
Go mark them with your living,
And mark them with your dead.

Take up the White Man's burden—
And reap his old reward:
The blame of those ye better,
The hate of those ye guard—
The cry of hosts ye humour
(Ah, slowly!) toward the light:--
'Why brought he us from bondage,
Our loved Egyptian night?'

Take up the White Man's burden—
Ye dare not stoop to less—
Nor call too loud on Freedom
To cloke your weariness;
By all ye cry or whisper,
By all ye leave or do,
The silent, sullen peoples
Shall weigh your Gods and you.

Take up the White Man's burden—
Have done with childish days—
The lightly proffered laurel,
The easy, ungrudged praise.
Comes now, to search your manhood
Through all the thankless years
Cold, edged with dear-bought wisdom,
The judgment of your peers!

(Kipling, 1899)

This thesis has been written by one who is proud to belong to what Kipling called the 'fluttered folk and wild'. My grandfather was taken in chains from Palm Island. I too have been assaulted and beaten up by the police. My nephew Lyji Vaggs died in 'care'. So I know something of the 'dirty business' that props up colonialism and with my last breath, I will fight for the rights of my people. As such this thesis does not partake of the kind of moral ambiguity that Ashenden (2010a; 2010b) and Rowse (2003) exhibit. I believe I made that clear in Chapter Four in my response to Windschuttle's work. It may be harsh to say so here, but I detect signs of a longing for a rapprochement with Windschuttle in Ashenden's and Rowse's articles. In Ashenden's case this is expressed, as we have seen in chapter Four, in his reading Australian history in terms of a rupture between the Frontier and the Post-Frontier. That leads him into a

partial endorsement of Windschuttle's (2009) approach to the Stolen Generations. Thus he writes:

First, he [Windschuttle] is quite correct to say that there are events and actions in the story of black and white for which we can be grateful, and to attribute these to post-Reformation Christianity and/or Enlightenment...Windschuttle is also correct to criticise the quite misplaced and a historical) sense of moral superiority which leads many Australians to condemn our past out of hand (Ashenden, 2010a).

It may be unfair, but I detect here the ambivalent position of a left-nationalist, who would be happier if Windschuttle was not such a gung-ho, cheer leader for all things Australian, but who would like to agree with him if only he were a little more subtle or compassionate.

Similarly Tim Rowse (2003, p.258) writes about how Windschuttle is ignoring the scepticism among many historians about the 'centrality of the violence theme'. Indeed Rowse believes that his attack on the violence theme is Windschuttle's 'most important contribution, to the writing of Australian history' (Rowse, 2003, p.257). Rowse ends his article with these words:

...he [Windschuttle] is not a lone fighter against a history profession united against him but one of many scholars who are dissatisfied with the colonist/colonised binary (Rowse, 2003, p.258).

Rowse may be dissatisfied with the binary 'colonist/colonised', however, it accurately captures the division in our society. Rowse's approach for me is nothing less than an olive branch being held out to someone who seems to rewrite Australian history, to deny what has been endured by my people. I will have none of that; however, what is the alternative?

Let me say that I believe passionately that the only way forward, is through a thorough decolonialisation of Australia. That is usually taken as code for a separatist push and what has come to be known as the 'Coombs' agenda'. However, despite the best intentions of Nugget Coombs, and he was a great man, his respect for First Australian people was hi-jacked in practice by men (sic) who used the rhetoric of self-determination, as cover for policies which lurched from neglect to 'ungovernment' (O'Malley, 1994).

I will return to my argument here, but let us compare two widely different texts by way of teasing out the dimensions of decolonisation, that I am exploring. The first pictographic text is Governor Davey's proclamation. (Picture 10.1). This was displayed by Governor Arthur on trees around Tasmania. It was an attempt to render explicit both the promise and the threats of the new order. It appeared to offer total assimilation - black man with white dog, white man

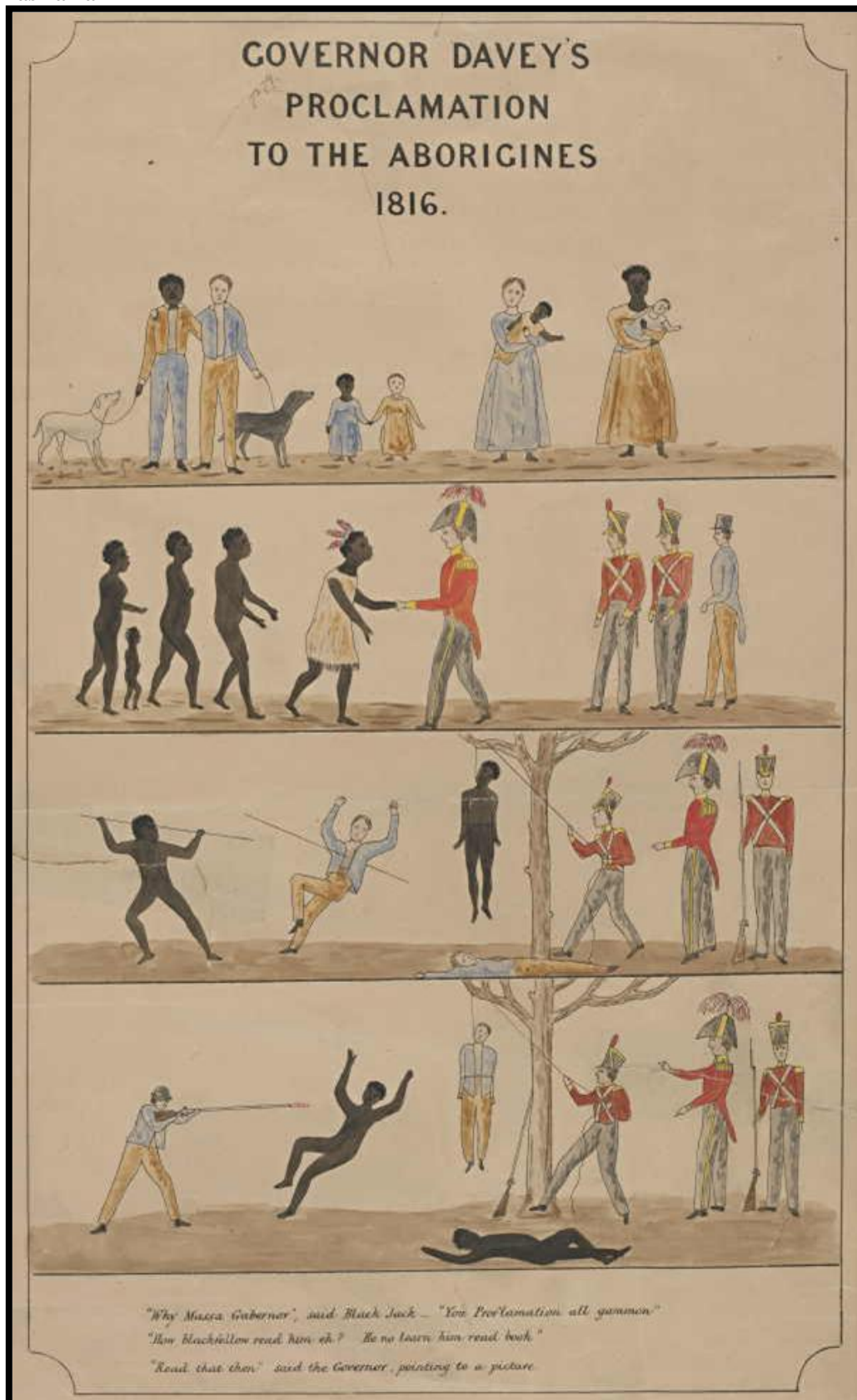
with black dog, white woman with black baby, and black woman with white baby. In terms of Bhaskar's concept of the Concrete Universal, the proclamation is an attempt to present an ideal version of the first level that of our common core humanity. The second layer that of mediations has been set aside and the realities of gender, ethnicity, and culture (including the relations with animals) have been obliterated. However because the second layer of mediations is not addressed the promise of full equality or assimilation is a truly hollow one.

Moreover, the threat encoded in the Proclamation is very real. Resistance is supposed to and did, as in the case of Musquito for example, end in hanging. Of course this is sweetened with the promise of the same for those who killed black people. But from the murderous Jack Watson with the 40 pairs of black ears nailed to his wall at Queensland's Lawn Hills cattle station, or the pathological William Henry Willshire, whose trial for the murder of two Aboriginal men lasted all of fifteen minutes (Ramsey, 2005), to our very own Sergeant Hurley, the promise of equal justice for First Australian people has seldom been anything but a sad joke.

It is true though, that the overt violence of the hunting and massacring of my people, which was for First Australians, the defining feature of the long nineteenth century, is no more. However, it has morphed into the structural violence of what has come to be known as 'the gap'. This is of course a misnomer for the 'humiliation, alienation, despair, cruelty and worse' (Gaita, 2007, p.295) that constitutes the lived experience of so many First Australians. This in reality, is the direct consequence of colonial dominance.

Let me take you back to the 26th of January in 1988 in Australia. 1988 was the year of the Bicentennial where White Australians were celebrating the White Australian birthday party of their settlement of 200 years in Australia. Indigenous Australians, on the other hand, were not celebrating this date, as this to us, was the invasion of 200 years. At that time, I was in London, presenting a paper on HIV AIDS for the World Health Organisation Conference. The late Elder Burnam Burnam had placed our Aboriginal flag in the sand at Dover, in England and read his authored Proclamation. I was invited to Buckingham Palace with the late Dr Jonothan Mann and other dignitaries as part of this Conference. It was here in Buckingham Palace, that I left a copy of his proclamation on the tables after our cup of tea. I gave many of the delegates' copies of these proclamations which they proceeded to distribute far and wide. This proclamation is in direct contrast to Governor Davies and offers an alternative view of the suppressed colonial history of Australia. This can be viewed on page 230 after the Governor Davies Proclamation.

Picture 10.1: Governor Davey's Proclamation. Dated around 1830. From State Library of Tasmania



Source: in Manderson (2008, p.225).

The Burnum Burnum Declaration: Aboriginal Justice with Honour

Picture 10.2: Burnum Burnum



Source: http://newilluminati.blog-city.com/the_burnum_burnum_declaration.htm

I, Burnum Burnum, being an aristocratic nobleman of ancient Australia, do hereby take possession of England on behalf of the Aboriginal Crown.

In doing so we wish no harm to you natives, but assure you that we are here to bring you good manners, refinement and an opportunity to make a Koompartoo – a fresh start.

Henceforth, my face shall appear on your coins and stamps to signify our sovereignty over this domain.

At the end of two hundred years, we Will make a Treaty to validate occupation by peaceful means and not by conquest.

For the more advanced, we bring the complex language of the Pitjantjatjara, we will teach you how to have a spiritual relationship with the Earth and show you how to get food from the bush.

We do not intend to souvenir, pickle and preserve the heads of 2000 of your people, nor to publicly display the skeletal remains of your Royal Highness, as done to our Queen Truganinni for eighty years.

Neither do we intend to poison your water holes, lace your bread with strychnine or introduce you to highly toxic drugs.

We acknowledge the need to preserve the Caucasian race as of interest to antiquity, although we may be inclined to conduct experiments by measuring the size of your skulls for levels of intelligence.

We pledge not to sterilise your young women.

We solemnly promise not to make a quarry of England and export your valuable minerals back to the old country Australia, but to encourage Earth Repair Action to unite people, communities and religions in a common, productive, peaceful purpose.

Finally, we give an absolute undertaking that you shall not be placed into the mentality of government handouts for the next five generations but you will enjoy the full benefits of Aboriginal equality.

Burnum Burnum made this solemn declaration standing on a rock at the base of England's White Cliffs of Dover on January 26th, 1988 – the bicentennial of the official British invasion of the Great Southland.

As a footnote, after this declaration the Australian two dollar coin became a two-headed coin – on one side the queen's head, and on the other side this design, based on Burnum Burnam's head:

It was twenty years ago today...

First published this in NEXUS New Times Magazine Volume 1, Number 4, 1988 – see <http://www.nexusmagazine.com>. Retrieved from: http://newilluminati.blog-city.com/the_burnum_burnum_declaration.htm, on September 27, 201.

To get some idea of possible alternatives let us now look at a third pictographic text which again Manderson (2008, pp.265-268) mentions.

Picture 10.3: The two-row wampum



Source: http://www.law.syr.edu/_assets/images/academics/wampum_small.gif&imgrefurl

This is the famous two-row wampum belt of the Haudenosaunee people of the Iroquois nation, which was presented in treaty negotiations with the Europeans. Manderson gives the following account of the belt's meaning:

You say that you are Father and I am your son. We say we will not be like Father and Son, but like Brothers. This wampum belt confirms our words. These two rows symbolize two paths or two vessels, travelling down the same river together. One, a birch bark canoe, will be for the Indian People, their laws, their customs and their ways. The other, a ship, will be for the white people and their laws, their customs and their ways. We shall each travel the river together, side by side, but each in their own boat. Neither of us will try to steer the other's vessel (quoted in Manderson, 2008, pp.266-267).

As this statement stands, the two-row wampum seems to hold out the promise of autonomy for First Australians, to the point of what Manderson terms the 'complete severing of relations'.

However as Kathryn Muller (2007), points out the history of the two-row wampum, is extremely complex and its status is by no means certain. She suggests as an alternative icon the Friendship Belt. John Buck, fire keeper of the Iroquois nation, described the function of the belt in 1887 to two archaeologists. Their record of the meeting says:

The fire keeper drew out a belt two feet long, three inches wide, containing nine rows of whitewampum. At the end was woven in purple a rude figure, intended to represent a man, while at the other end was a similar figure, differing only in having a white spot on his breast and face.

The two figures were joined by a long, narrow strip of purple running from one end of the belt to the other. This belt represents the great treaty between the white man and the Indians. The long blue streak between them is to indicate that the road of communication is to be kept clear and open. If either side have any grievance, the road is open for them to come and explain it to the other, and have the trouble remedied (John Buck quoted in Muller, 2007, p.139).

For Muller the friendship belt is a more relevant icon than the two row wampum. It signifies respect and a determination to hold on to what is valuable in the differences between the two peoples.

We unfortunately, have never had a treaty in Australia nor anything to match the belts to mark an agreement between the First Australians and the non-Indigenous peoples of this land. But we can make a beginning towards a thoroughly decolonised nation, where all within it flourish because we are all endowed with common core humanity. Such a nation would once more turn to the noble ideal of Human Rights and attempt to make them part of the lived experience of every Australian.

In Chapter Six we saw that such a prospect fills a good many Australians with dread. Yet I would argue that this fear is a deeply irrational one. Let me turn to what some might take as a very unusual source, to show how this fear might be transcended. In his discussion of Jacques Maritain's position on Human Rights, Frederick Crosson (1983) points out that Maritain's position on Human Rights was based on two premises drawn from Thomas Aquinas. Firstly, that unlike in classically liberal thought there was for Maritain no contradiction between what was good for the individual and what was part of the common good. The common good made possible things like education and justice, which were good for the person. The second position that Maritain got from Aquinas was that humanity was created and ordered for an end which transcended the political. This was union with God and the function of society was to facilitate that end, by allowing religious freedom (Crosson, 1983, pp.897-898).

Crosson returns to the question of humanity's 'transpolitical destiny', when he considers the problem that Maritain's eventual adherence to a doctrine of natural rights, cannot be traced to Aquinas for whom rights were only obtained through membership of the community (Crosson, 1983, p.911). Crosson has a very interesting parenthesis when he discusses whether the existence of a 'transpolitical destiny' in some way constitutes rights, which predate membership of the community and as such can be thought to be akin to natural rights (Crosson, 1983, p.910). Here Crosson says that this 'transpolitical destiny' does not take man out of society but orders him to an alternative society - 'the City of God' (Crosson, 1983, p.911). In that society

according to the language of rights, this does not apply. What rules is 'grace and charity not merit and justice' (Crosson, 1983, p.910). I translate charity here as love and from this I would attempt to resolve the distinction between the City of God and human society. What is needed then is a society which is dominated by grace and love (charity) and merit and justice. This would be a society where there would be no tension between human and natural rights and also one where as Maritain hoped, rights would not only preserve what we have, but be 'conditions of development' (Crosson, 1983, p.911).

Finally, it is my dream that this thesis, will contribute in some way to building a better nation for Australia where Indigenous and Non-Indigenous Australians can live in harmony with respect for each other's cultural, religious values and political values. We the First Australian people have no belt to offer our white brothers and sisters. However, our late great poet and Elder Oodgeroo of the Nunuccal people (1920-1993) did pen these lines and I will use them to draw this thesis and my long journey with it to a conclusion.

Son of Mine

For Dennis

*My son, your troubled eyes search mine,
Puzzled and hurt by colour line.
Your black skin soft as velvet shine;
What can I tell you, son of mine?
I could tell you of heartbreak, hatred blind,
I could tell of crimes that shame mankind,
Of brutal wrong and deeds malign,
Of rape and murder, son of mine;
But I'll tell instead of brave and fine
When lives of black and white entwine,
And men in brotherhood combine-
This would I tell you, son of mine.*

Oodgeroo Noonuccal. Son of mine. Retrieved August 13, 2010,
from: <http://www.poetrylibrary.edu.au/poems-book/my-people-a-kath-walker-collection-0771000>.

References

- Aboriginal and Torres Strait Islander Women's Task Force on Violence Report. (2000). Retrieved May 15, 2010, from: <http://www.austlii.edu.au/au/journals/AILR/2000/20.html>.
- ABC Stateline. (2005). 'Townsville Slavery', 23 September. Retrieved May 15, 2010, from <http://www.abc.net.au/stateline/qld/content/2005/s1467096.htm>.
- Ackland, R. (2010, 2nd July). Rules don't matter in the Wild West- nor does a life. *National Times*. Retrieved July 30, 2010 from: <http://www.theage.com.au/opinion/society-and-culture/rules-dont-matter-in-the-wild-west--nor-does-a-life-20100701-zqgn.html>.
- Adams, D. W. (1995). *Education for Extinction: American Indians and the Boarding School Experience 1875-1928*. Lawrence: University of Kansas Press.
- Adams, D. W. (2001). More than a Game: The Carlisle Indians Take to the Gridiron, 1893-1917. *The Western Historical Quarterly*, 32 (1), 25-53.
- Afshari, R. (2007). On Historiography of Human Rights Reflections on Paul Gordon Lauren's 'The Evolution of International Human Rights: Visions Seen.' *Human Rights Quarterly*, 29 (1), 1-67.
- Akerman, P. (2008, 11th December). The Bill of Sights. *The Daily Telegraph*. Retrieved May 15, 2010, from: www.dailytelegraph.com.au/news/opinion/the-bill-of-sights.
- Albrechtsen, J. (2009, 14th October). No hiding substantive untruths behind Human Rights platitudes. *The Australian*. Retrieved April 28, 2010, from: <http://blogs.theaustralian.news.com.au/janetalbrechtsen/>
- Allan, J. A. (2010a, 19th February). Kevin Rudd's good job on opposing rights bill. *The Australian*. Retrieved April 28, 2010, from: <http://www.theaustralian.com.au/business/legal-affairs/john-howard-rejects-bill-of-rights-as-buck-passing/story-e6frg97x-1225766612439>.
- Allan, J. B. (2010b, 6th March). Rights bill is still a threat. *The Australian*. Retrieved April 28, 2010, from: <http://www.theaustralian.com.au/politics/opinion/rights-bill-is-still-a-threat/story-e6frgd0x-1225837499041>.
- Allan, J. C. (2010c, 12th March). Desperate charter lobby turns on its opponents. *The Australian*. Retrieved April 28, 2010, from: <http://www.theaustralian.com.au/business/legal-affairs/desperate-charter-lobby-turns-on-its-opponents/story-e6frg97x-1225839772074>.
- Allen, J., Als, H., Litwack L .F. (2000). *Without Sanctuary: Lynching Photography in America*. New York: Twin Palms.
- Altman, J. (2009a, 26th May). No movement on the outstations. *Sydney Morning Herald*.
- Altman, J. (2010, 21st June). NT intervention three years on: Government's progress report is disturbing. Crikey.com. Retrieved September 20, 2010, from: <http://www.crikey.com.au/2010/06/21/nt-intervention-three-years-on-governments-progress-report-is-disturbing/>.

- Altman, J., Hinkson, M. (Eds.). (2007a). *Coercive reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*. Melbourne: Arena Publications Association.
- Altman, J., Hinkson, M. (2007b). Preface. In Altman, J. and Hinkson, M. (Eds.). *Coercive reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*. pp.vii-ix. Melbourne: Arena Publications Association.
- Altman, J., Sanders, W. (1991). *From exclusion to dependence: Aborigines and the welfare state in Australia*. Discussion Paper No. 1/1991. Canberra: Centre for Aboriginal Economic Policy Research, Australian National University.
- Anderson, P., Wild, R. (2007). Little Children are Sacred: Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. Darwin: Northern Territory Government. Retrieved May 13, 2010, from: http://www.inquirysaac.nt.gov.au/pdf/bipacsa_final_report.pdf
- Anderson, T. (2005). When I close my eyes and think of my home place. *The American Indian Quarterly*, 29 (1&2), 226-227.
- ANTAR, (2009, 15th June) Submission to the national Consultation on Human Rights. Retrieved April 28, 2010, from: [http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/04730132803E4A69CA2576110013E0BA/\\$file/Australians%20for%20Native%20Title%20and%20Reconciliation_AGWW-7T28Y4.pdf](http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/04730132803E4A69CA2576110013E0BA/$file/Australians%20for%20Native%20Title%20and%20Reconciliation_AGWW-7T28Y4.pdf).
- Arat, Z. F. K. (2006). Forging a Global Culture of Human Rights: Origins and Prospects of the International Bill of Rights. *Human Rights Quarterly*, 28, 416–437.
- Ashenden, D. (2010a, 15th March). Windschuttle, again. *Inside Story: Current affairs and culture*. Retrieved 15 June, 2010, from: <http://inside.org.au/windschuttle-again/>.
- Ashenden, D. (2010b, 10th June 2010). The strange career of the Australian conscience. *Inside Story: Current affairs and culture*. Retrieved May 24, 2011, from: <http://inside.org.au/the-strange-career-of-the-australian-conscience/>.
- Attwood, B. Burrage, W., Burrage, A., Stokie, E. (1994). *A Life Together, a Life Apart: A History of Relations between Europeans and Aborigines*. Melbourne: Melbourne University Press.
- Attwood, B. (2005). *Telling the Truth about Aboriginal History*. Sydney: Allen & Unwin.
- Australian Christian Lobby. (2009, 15th June). ACL submission to the National Human Rights Consultation. Retrieved June 13, 2010, from: <http://australianchristianlobby.org.au/2009/06/acl-submission-to-the-national-human-rights-consultation>.
- Australian Council for the Defence of Government School. (2008, 6 May). Press release: Roman Catholic Church Interests inflicts greatest defeat of an Australian Referendum proposal on guess what? Religious liberty. Retrieved April 27, 2010, from: www.adogs.info/pr252.htm.
- Australian Institute of Health and Welfare. (2010). *Whose health? How populations groups vary?* Retrieved June 1, 2010, from: <http://www.aihw.gov.au/publications/aus/ah10/11374-c05.pdf>.

- Australian Vice Chancellors Committee. (2007). National Statement about Ethical Conduct in Human Research. Retrieved June 15, 2010, from: <http://www.anu.edu.au/ro/ORI/Human/NHMRCHumanEthicsNationalStatement2007.pdf>.
- Avery, J. (2005). 'Communal assets and individual benefits: bridging the Aboriginal job opportunity gap with incentives', paper presented at the Bennelong society Conference, 'Where are the Jobs?', Retrieved, July 25, 2006, from: <http://www.bennelong.com.au/conferences/conference2005/Avery2005.php>.
- Barthes, R. (1981) *Camera Lucida*. London: Jonathan Cape.
- Bateman, F. E .A. (1948). *Report on Survey of Native Affairs*. Perth: Western Australia Government.
- Baudrillard, J. (1995). *The Gulf War Did Not Take Place*. Indiana: Indiana University Press.
- Baudrillard, J. (2005). War Porn. *International Journal of Baudrillard Studies*, 2 (1). Retrieved May 25, 2010, from: http://www.ubishops.ca/baudrillardstudies/vol2_1/taylor.htm.
- Baumann. J. F. (1988, May). Direct Instruction reconsidered. *Journal of Reading*, 31(8), pp.712-718.
- BBC News Africa. (2010, 27th July). Ex-students admit humiliating South Africa workers. Retrieved July 30, 2010, from: <http://www.bbc.co.uk/news/world-africa-10778200>.
- Beams, N. (2003, 16th, 17th, 18th September). An Assault on historical truth, Part 1, 2, 3: Nick Beams reviews Keith Windschuttle's *The Fabrication of Aboriginal History*. Retrieved August 10, 2010, from: <http://www.wsws.org/articles/2003/sep2003/hist-17s.shtm>.
- Bedau, H. A. (2000). 'Anarchial Fallacies': Bentham's Attack on Human Rights. *Human Rights Quarterly*, 22, 261-279.
- Bee, B. (1980). 'the Politics of Literacy' in R. Mackie (Ed) *Literacy and revolution: the Pedagogy of Paulo Freire*. pp.39-56. London: Pluto Press.
- Behrendt, L. (2007). The Emergency We Had to have. In Altman,J. and Hinkson,M. (Eds.). *Coercive reconciliation: Stabilise, Normalise, Exit Aboriginal Australia* (pp.15-20). Melbourne: Arena Publications Association.
- Bell, D. (2007). Review Charlesworth et al (Eds). (2005). *Aboriginal Religions in Australia: An Anthology of Recent Writings*. *Journal of the American Academy of Religions*, 691-694.
- Bendle, M. (2010, 8th March). Obsession with genocide. Retrieved August 12, 2010, from: <http://www.quadrant.org.au/blogs/history-wars/2010/03/obsession-with-genocide>.
- Benjamin, W. (1974). *On the Concept of History*. Retrieved August 12, 2010, from: <http://members.efn.org/~dredmond/ThesesonHistory.html>
- Benson, P. (2008). El Campo: Faciality and Structural Violence in Farm Labor Camps. *Cultural Anthropology*, 23 (4), 589-629.
- Bentham, J. (1998). Anarchial Fallacies. *Headline Series*, 318, 56-69.

- Bentham, J. (1978). Offences against Oneself. *Journal of Homosexuality*, 3(4), 389-405.
- Beresford, Q. (2004). Indigenous alienation from school and 'the embedded legacy of history': The Australian experience. *International Journal of School Disaffection*, 2 (2), 6-13.
- Berger, J. (1980). *About Looking*. London: Writers' & Readers' Publishing Co-op.
- Berndt, R. M., Berndt, C. H. (1987). (eds), *End of an Era: Aboriginal Labour in the Northern Territory*. Canberra: Australian Institute of Aboriginal Studies.
- Berkovic, N., Elks S. (2009, 26th November) Jenny Macklin spells out welfare changes, *The Australian*. Retrieved, September 20, 2010 from: <http://www.theaustralian.com.au/news/nation/macklin-spells-out-welfare-changes/story-e6frg6nf-1225803954669>.
- Berkowitz, P. (2002). John Rawls and the Liberal Faith. *The Wilson Quarterly*, 26 (2), 60-69.
- Berry, M. F. (1966). Vindicating the Race: Contributions to African-American Intellectual History. *Journal of Negro History*, 81 (1/4), pp.137-144.
- Bhaskar, R. (1989). *Reclaiming Reality: A Critical Introduction to Contemporary Philosophy*. London: Verso.
- Bhaskar, R. (1993). *Dialectic: the Pulse of Freedom*. London: Verso.
- Bhaskar, R. (2002). *Reflections on Meta-Reality: a Philosophy for the Present*. New Delhi: Sage.
- Bhaskar, R. (2009). *Scientific Realism and Human Emancipation*. London: Routledge.
- Bhaskar, R. (2010). *Plato Etc: The problems of philosophy and their resolution*. London: Routledge.
- Biddle, N. (2010). *A Human Capital Approach to the Educational Marginalisation of Indigenous Australians*. Canberra: Centre for Aboriginal Economic Policy Research.
- Biskup, P. (1968). White-Aboriginal relations in Western Australia: An Overview. *Comparative Studies in Society and History*, 10 (4), 447-457.
- Blackpast.org. (2011). 1857: Frederick Douglass, 'If There Is No Struggle, There Is No Progress. Retrieved June 14, 2011, from: <http://www.blackpast.org/?q=1857-frederick-douglass-if-there-no-struggle-there-no-progress>.
- Boa, B. (2010). La (non)-assimilation des Aborigènes dans la Nouvelle-Galles du Sud. *Le Mouvement Social*, 230, 99-125.
- Bolt, A. (2006). Stolen generations: My Melbourne Writers' Festival speech. Retrieved June 14, 2011, from: http://blogs.news.com.au/heraldsun/andrewbolt/index.php/heraldsun/comments/stolen-generations_my_writers_festival_speech.
- Bolt, A. (2010, 3rd March). A Killer myth. *Spectator.co.uk*. Retrieved August 10, 2010, from: <http://www.spectator.co.uk/print/australia/5813668/a-killer-myth.html>.
- Boswell, J. (1917). Life of Johnson. Retrieved August 10, 2010 from: <http://www.gutenberg.org/files/1564/1564-h/1564-h.htm>.

- Bottomore, T. (1985). *Theories of Modern Capitalism*. London: George Allen & Unwin.
- Boulden, K., Morton, J. (2007). Don't Crash the Ambulance. In Altman, J. and Hinkson, M. (Eds.). *Coercive reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*. pp.163- 170. Melbourne: Arena Publications Association.
- Boyce, J. (2003, 10th December). 'Better to be mistaken than to deceive': The Fabrication of Aboriginal History and the Van Diemonien Record. *Quadrant*, 47 (12), 1-37.
- Branson, C. (2010, 10th December). 2010 Human Rights Day Oration. Retrieved June 20, 2011, from:
http://www.hreoc.gov.au/about/media/speeches/speeches_president/2010/20101210_hrd_ay_oration.html
- Brantlinger, P. (2004). 'Black Armband' versus 'White Blindfold' History in Australia, Review Essay. *Victorian Studies*, 655-674.
- Brecht, B. (1935). Questions from a worker who reads. Retrieved August 14, 2010, from:
<https://www.msu.edu/~sullivan/TransBrechtWorker.html>.
- Breen, S. (2003). Criminals and pimps: Keith Windschuttle and Tasmanian Aborigines. Retrieved August 24, 2010, from: <http://evatt.labor.net.au/news/101.html>.
- Brenkert, G. G. (1986). Marx and Human Rights. *Journal of the History of Philosophy*, 24 (1), 57-77.
- Brennan, A. (2009a, 28th January). *Anger over drunk man ordered to dance and sing for Youtube video. PM: ABC Local Radio*. Retrieved, July 24th, 2010, from:
<http://www.abc.net.au/pm/content/2008/s2476664.htm>.
- Brennan, F. (2009b, 21st May). Just to clarify... *Open Forum*. Retrieved April 28, 2010, from: www.openforum.com.au/NHROC/Bill-of-Rights.
- Brennan, F. (2010a, 26th January). Toothless, Trojan or true to Trinitarian anthropology. *Eurekastreet.com.au*. Retrieved April 28, 2010, from:
<http://www.eurekastreet.com.au/article.aspx?aeid=18996#>.
- Brennan, F. (2010b, 23rd April). A Charter of Rights is divisive? The vast majority think not. *The Age*. Retrieved April 28, 2010, from: <http://www.theage.com.au/opinion/society-and-culture/a-charter-of-rights-is-divisive-the-vast-majority-think-not-20100422-tfqk.html>.
- Brimblecombe, J., Thomas, D. (2010, 17th May). Macklin twists truth on income management. Retrieved September 20, 2010 from: <http://www.crikey.com.au/2010/05/17/income-management-isnt-working-and-macklins-twisting-the-truth/>.
- Briscoe, G. (1993). Aboriginal Australian Identity: The Historiography of Relations between Indigenous Ethnic Groups and Other Australians, 1788-1988. *History Workshop*, 36, 133-161.
- Brown, D. (1991). *Bury my Heart at Wounded Knee: An Indian History of the American West*. New York: Henry Holt & Co.
- Brown, W. (2006). American Nightmare: Neoliberalism, Neoconservatism and De-Democratization. *Political Theory*, 34 (6), 690-714.

- Brunton, R. (1996). The Hindmarsh Island Bridge: And the Credibility of Australian Anthropology. *Anthropology Today*, 12 (4), 2-7.
- Brunton, R. (1998, February). Betraying the Victims: The 'Stolen Generations' Report. 10 (1), 1-24. *IPA Backgrounder*. Retrieved June 14, 2011, from: <http://www.ipa.org.au/publications/463/betraying-the-victims-the-%27stolen-generations%27-report>.
- Buchanan, M. (2002). Wealth Happens. *Harvard Business Review*, 80 (4), R0204.
- Buck-Morss, S. (2000). Hegel and Haiti. *Critical Inquiry*, 26, 821-865.
- Burnam, B. Declaration. (1988, 26th January). Retrieved September 27, 2011 from: http://newilluminati.blog-city.com/the_burnum_burnum_declaration.htm
- Burnside, J. (2008). Citizen's rights and the rule of law: Not just yet: the 2008 Manning Clark Lecture. Retrieved April 20, 2010, from: www.safecom.org.au/burnside6.htm.
- Burrows, H. (2007). Book Review: Trustees on Trial: Recovering the Stolen Wages. *Indigenous Law Bulletin*. Retrieved June 14, 2011, from: <http://www.austlii.edu.au/au/journals/ILB/2007/15.html>.
- Büthe, T. (2002). Taking Temporality Seriously: Modeling History and the Use of Narratives as Evidence. *The American Political Science Review*, 96 (3), 481-493.
- Buti, T. (1999). The Systematic Removal of Indigenous Children from their Families in Australia and Canada: The History – Similarities and Differences. Retrieved June 6, 2010, from: <http://www.newcastle.edu.au/centre/cispr/conferences/land/butipaper.pdf>.
- Calma, T. (2009). Submission to the National Consultation on Human Rights. Retrieved April 28, 2010, from: [http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/8833FD2B1E23DDA4CA25760F00063B6A/\\$file/Tom%20Calma_AGWW-7T25U2.pdf](http://www.humanrightsconsultation.gov.au/www/nhrcc/submissions.nsf/list/8833FD2B1E23DDA4CA25760F00063B6A/$file/Tom%20Calma_AGWW-7T25U2.pdf).
- Camara, D. H. (1969). *The Church and Colonialism: The Betrayal of the Third World*. New Jersey: Dimension Books.
- Campion, E. (2009). *Ted Kennedy: Priest of Redfern*. Melbourne: David Lovell Publishing.
- Cardenas, S. (2005). Constructing rights? Human Rights Education and the State. *International Political Science Review*, 26 (4), 363-379.
- Carr, B. (2009). Bill of rights is the wrong call. *The Australian*, May 09, 2009. Retrieved from: <http://www.theaustralian.com.au/news/features/bill-of-rights-is-the-wrong-call/story-e6frg6z6-1225710664130>.
- Carr, L. G. (1997). *'Color-blind' racism*. New York: Sage.
- Chandler, M.J., Lalonde C., Sokol B.W., Hallet, D. (2003). Personal Persistence, Identity Development, and Suicide: A Study of Native and Non-Native North American Adolescents. *Monographs of the Society of Research in Child Development*, 68 (2, Series No 273). Retrieved March 10, 2010, from: <http://turtleisland.org>.
- Chappell, L. (2002, 12th August). The Australian Bill of Rights debate: Putting the cart before the horse? *Australian Review of Public Affairs*. Retrieved June 14, 2011, from: <http://www.australianreview.net/digest/2002/08/chappell.html>.

- Charlesworth, M., Dussart, F., Morphy H. (2005). *Aboriginal Religions in Australia: an Anthology of Recent Writings*. Farnham: Ashgate Publishing Ltd.
- Chesterman, J., Douglas, H. (2009). Law on Australia's Northern Frontier: The Fall and Rise of Race. *Canadian Journal of Law and Society*, 24 (1), 69-83.
- Churchill, W. (2004). *Kill the Indian, Save the Man: The Genocidal Impact of American Indian Residential Schools*. San Francisco: City Light Books.
- Ci, J. W. (2005). Taking the Reasons for Human Rights Seriously. *Political Theory*, 33 (2), 243-265.
- Cixous, H. (1976). The Laugh of the Medusa. *Journal of Women in Culture and Society*, 1 (4), 875-893.
- Clarke, J. (1996). Chronology of the Kumarangk/Hindmarsh Island Affair. *Aboriginal Law Bulletin*, 64. Retrieved June 14, 2011, from: <http://www.austlii.edu.au/au/journals/AboriginalLB/1996/64.html#Heading1>.
- Clarke, P.A. (1996). Response to 'secret women's business: The Hindmarsh Island affair'. *Journal of Australian Studies*, 20 (50), 141-149.
- Clarke, M. (1964). *A Short History of Australia*. London: Heinemann.
- Cmpalm. (2009, 29th May). Anonymous Submission to the HRCC Open Forum, retrieved April 28, 2010, from: <http://www.openforum.com.au/NHROC/Bill-of-Rights>.
- Coleman, P. (2002, 1st December). The Windschuttle Thesis. *Quadrant*, 46 (12), 80-81.
- Collier, A. (1900). *Socialist Reasoning: An inquiry into the Political Philosophy of Scientific Socialism*. London: Pluto Press.
- Collier, A. (1999). *Being and Worth*. London: Routledge.
- Colvin, M. (Presenter), Woodley, N. (Reporter). (2010, 21 April). No Human Rights Act for Australia. (Podcast radio programme). ABC Radio National: Retrieved April 28, 2010, from: <http://www.abc.net.au/pm/content/2010/s2879251.htm>.
- Concerned Australians. (2010). *This is what we said: Aboriginal People give their views on the Northern Territory Intervention*. Melbourne: Vega Press.
- Connin, L. J. (1985). On DiQuattro. 'Rawls and Left Criticism'. *Political Theory*, 13 (1), 138-141.
- Coombs, H. C., Stanner, W. E. H. (1974). *Report on Visit to Yuendumu and Hooker Creek by Dr H.C. Coombs and Professor W.E.H. Stanner in March 1974*. Canberra: Australian Government Publishing Service.
- Copland, M., Richards, J., Walker, A. (2006). *One Hour More Daylight*. Toowoomba: Social Justice Commission.
- Courtney, W. L. (1889). *John Stuart Mill*. London: Walter Scott.
- Crime and Misconduct Commission. (2009). *Restoring Order: Crime prevention, policing and local justice in Queensland's Indigenous communities*. Brisbane: CMC.

- Crime and Misconduct Commission. (2010, June). Review of the Queensland Police Service's Palm Island Review. Retrieved September 14, 2010, from: <http://resources.news.com.au/files/2010/06/17/1225880/815779-cmc-palm-island-report.pdf>.
- Crimmins, J. E. (2002). Bentham and Hobbes: An issue of influence. *Journal of the History of Ideas*, 63 (4), 677-699.
- Crossan, J. D. (1994). *Jesus: A revolutionary biography*. New York: Harper Collins.
- Crosson, F. J. (1983). Maritain and Natural Rights. *Review of Metaphysics*, 36 (4), 895-912.
- Curthoys, A., Moore, C. (1995). Working for the White People: An Historiographic Essay on Aboriginal and Torres Strait Islander Labour. *Labour History*, 69, 1-29.
- Dallmayr, F. (2002, April). 'Asian Values' and Global Human Rights. *Philosophy East and West*, 52 (2), 173-189.
- Dallmayr, F. (2003). On Human Rights-in-the-World: A Response to Jamie Morgan. *Philosophy East and West*, 53 (4), 587-590.
- Da Silva, W. (1997, 1st June). Australian Leader Refusal to Apologize for Native Land Theft. *Albion Monitor*. Retrieved August 3, 2010, from: <http://www.albionmonitor.com/9706a/ausapology.html>.
- Davis, M. (2008). *The land of plenty: Australia in the 2000s*. Melbourne: Melbourne University Press.
- De Baets, A. (2009). The Impact of the Universal Declaration of Human Rights on the Study of History. *History and Theory*, 48, 20-43.
- Debelle, P., Chandler, J. (2007, 2 August). Stolen Generation Payout. *The Age*. Retrieved May 15, 2010, from: <http://www.theage.com.au/news/national/stolen-generation-payout/2007/08/01/1185647978562.html>.
- de Corte, E. (2010). Historical Developments in the Understanding of Education. In Dumont, H., Istance, D. and Benavides, F. (Eds) *The Nature of Learning: Using Research to Inspire Practice*, OECD. pp.36-68.
- De La Fontaine, J. (1668). *Le Loup et L'agneau*. Retrieved June 14, 2010, from: http://poesie.webnet.fr/lesgrandsclassiques/poemes/jean_de_la_fontaine/le_loup_et_l_agneau.html.
- Derrida, J. (1976). *Of Grammatology*. Baltimore: Johns Hopkins University Press.
- Devine, F. (2004, 6th December). *White Australia Policy* and *Washout* book launch. Retrieved August 10, 2010, from: www.sydneyle.com/.
- Dibben, K. (2007, 30th September). QUT film in new dispute. *Courier Mail*, 36.
- DiQuattro, A. (1983). Rawls and Left Criticism. *Political Theory*, 11 (1), 53-78.
- DiQuattro, A. (1986). Rawls versus Hayek. *Political Theory*, 14 (2), 307-310.

- Dodson, M. (2007). Bully in the Playground: A New Stolen Generation? In Altman, J. and Hinkson, M. (Eds.). *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*. pp.85-96. Melbourne: Arena Publications Association.
- Dodson, P. (1999, August). Vincent Lingiari Memorial Lecture: 'Until the Chains are Broken', Northern Territory University. Retrieved July 10, 2009, from: <http://www.austlii.edu.au/au/journals/AILR/2000/18.html>.
- Dodson, P. (2007). Whatever Happened to Reconciliation? In Altman, J. and Hinkson, M. (Eds.). *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia* (pp.21-30). Melbourne: Arena Publications Association.
- Draper, H. (2007). Marx, Engels, and Self- emancipation. *International Socialist Review*, 52, Retrieved June 14, 2011, from: <http://www.isreview.org/issues/54/emancipation2.shtml>.
- D'Souza, D. (2002, 10th May). Two Cheers for Colonialism. Retrieved August 30, 2010 from: <http://forums.canadiancontent.net/international-politics/43372-two-cheers-colonialism.html>.
- Edmunds, M. (2009) The Northern Territory Intervention and Human rights: An Anthropological Perspective. Whitlam Institute. Retrieved October 15, 2011, from: http://www.whitlam.org/_data/assets/pdf_file/0005/162932/Perspectives_-_Dr_Mary_Edmunds_Nov_2010.pdf
- Elbourne, E. (2003). The sin of the Settler: The 1835-36 Select Committee on Aborigines and Debates over Virtue and Conquest in the Early Nineteenth- Century British White Settler Empire. *Journal of Colonialism and Colonial History*, 4(3), 24-48.
- Ellinghaus, K. (2009). Biological Absorption and Genocide: A Comparison of Indigenous Assimilation Policies in the United States and Australia. *Genocide Studies and Prevention*, 4 (1), 59-79.
- Enoch, J. (2002). Resisting the script of Indian education: Zitkala Sa and the Carlisle Indian School. *College English*, 65 (2), 117-132.
- Engler, M. (2000). Towards the 'Rights of the Poor': Human Rights in Liberation Theology. *Journal of Religious Ethics*, 28 (3), 339-365.
- Evans, R. (2007). A History of Queensland: Chronology. Retrieved June 14, 2011, from: <file:///C:/DOCUME~1/gxmac0/LOCALS~1/Temp/A%20History%20of%20Queensland%20-%20Cambridge%20University%20Press.htm>.
- Evans, R. (2010). The country has another past: Queensland and the History Wars. In Peters-Little, F. et al. *Passionate Histories: Myth, Memory and Indigenous Australia*. pp.9-38. Canberra: ANU Press.
- Families Responsibilities Commission. (2010). *Annual Report*. Cairns: FRC.
- Farmer, P. (1988). Bad blood, spoiled milk: bodily fluids as moral barometers in rural Haiti. *American Ethnologist*, 15 (1), 62-83.
- Farmer, P. (1996). On Suffering and Structural violence: A View from Below. *Daedalus*, 125, 261-283.

- Farmer, P. (2003). Homophobia and Anti-Gay violence: Contemporary Perspectives. *Culture, Health and Sexuality*, 5 (2), 175-179.
- Farmer, P. (2004a, April). Who Removed Aristide. *London Review of Books*, 26 (8), 28-31.
- Farmer, P. (2004b). An Anthropology of Structural Violence: Sydney Mintz Lecture for 2001. *Current Anthropology*, 45 (3), 305-325.
- Farmer, P. (2008). Challenging Orthodoxies: the road ahead for Health and Human Rights. *Health and Human Rights*, 10(1), 5-19.
- Farmer, P., Kleinman, A. (1989). AIDS as Human Suffering. *Daedalus*, 118 (2), 135-160.
- Farmer, P., Yong Kim, J. (1998). Community Based Approaches to the Control of Multidrug Resistant Tuberculosis. *British Medical Journal*, 317 (7159), 671-674.
- Fear-Segal, J. (1999). Nineteenth-Century Indian Education: Universalism versus Evolutionism. *Journal of American Studies*, 33 (2), 323-341.
- Ferguson, N. (2003). Power. *Foreign Policy*, 134, 18-22, 24.
- Ferguson, N. (2004). A World Without Power. *Foreign Policy*, 143, 32-39.
- Ferguson, N. (2006). The Next War of the World. *Foreign Affairs*, 85 (5), 61-74.
- Ferrari, J. (2008). Historians neglecting storyteller role. *The Australian*. Retrieved August 10, 2010, from: <http://www.theaustralian.com.au/news/nation/historians-neglecting-storyteller-role/story-e6frg6nf-1111117611746>.
- Ferry, L. D. G. (2007). Floors Without Foundations: Ignatieff and Rorty on Human Rights. *Logos: A Journal of Catholic Thought and Culture*, 10 (1), 80-105.
- Finnane, M., Richards, J. (2004). 'You'll get nothing out of it'? The inquest, police and Aboriginal deaths in colonial Queensland. *Australian Historical Studies*, 35(123), 84-105.
- Flanagan, T. W., Wilkie, M., Iuliano S. (2010). Australian South Sea Islanders: A century of race discrimination under Australian law. Australian Human Rights Commission: Retrieved August 10, 2010 from: http://www.hreoc.gov.au/racial_discrimination/forum/Erace/south_sea.html.
- Fletcher, J. J. (1989). *Clean, Clad and Courteous: A History of Aboriginal Education in New South Wales*. Sydney: Southwood Press.
- Fogarty, B., Ryan, M. (2007). Monday in Maningrida. In Altman, J. and Hinkson, M. (Eds.). *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia* (pp.263-272). Melbourne: Arena Publications Association.
- Foley, G. (1988). "Teaching the Whites a Lesson" in Burgmann, Verity & Lee, Jenny (eds.). *Staining the Wattle: a people's history of Australia since 1788*, Fitzroy, McPhee Gribble.
- Forde, L. (1999). Report of the Commission of Inquiry into Abuse of Children in Queensland Institutions. Retrieved August 16, 2010, from: http://www.communityservices.qld.gov.au/community/redressscheme/documents/for_de_comminquiry.pdf.

- Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison*. Harmondsworth: Penguin.
- Frank, A. G. (1969). *Latin America: Underdevelopment or Revolution*. New York: Monthly Review Press.
- Frank, A. G. (1996). *The Development of Underdevelopment*. New York: Monthly Review Press.
- Freeland, J. (1979, 12th April). Class Struggle in Schooling: MACOS and SEMP in Queensland. *Intervention*, 29–62.
- Freire, P. (1973). *Pedagogy of the Oppressed*. Harmondsworth: Penguin.
- Fried, D. (2004). A Bloody Absence: Communist Narratology and the Literature of May Thirtieth. *Chinese Literature: Essays, Articles, Reviews*, 26, 23-53.
- Friedman, J. (1997). Hayek's political philosophy and his economics. *Critical Review*, 11 (1), 1-10.
- Fuentes, A. (2011). *Lockdown High: When the Schoolhouse becomes a Jailhouse*. London: Verso.
- Gaita, R. (2007). The Moral Force of Reconciliation. In J. Altman, and M. Hinkson, (Eds.). *Coercive reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*. pp.295-306. Melbourne: Arena Publications Association.
- Gere, A. R. (2004). An Art of Survivance: Angel DeCora at Carlisle. *American Indian Quarterly*, 28 (3/4), 649-684.
- Gilbert, N. (2002). *Transformation of the Welfare State: The Silent Surrender of Public Responsibility*. Oxford: Oxford University Press, 2002.
- Ginzburg, C. (1991). Checking the Evidence: The Judge and the Historian. *Critical Inquiry*, 18, 79-92.
- Ginzburg, C. (1993). Microhistory: Two or Three Things that I know about it. *Critical Inquiry*, 20 (1), 10-35.
- Giroux, H. (1985). *Introduction to Paulo Freire: The Politics of Education*. New York: Bergin and Garvey.
- Gould, B. (2000, 23rd November). McGuinness, Windschuttle and *Quadrant*: The attempt to revise the history of the massacre of Aborigines on the British colonial frontier in Australia. *Ozleft*. Retrieved August 4, 2010, from: www.gouldbooks.com.au/ozleft.windschuttleblack.html.
- Graham, C. (2010, 7th September). Telling Whites what they want to hear. *The Drum Unleashed*. Retrieved September 20, 2010, from: <http://www.abc.net.au/unleashed/stories/s3004685.htm>.
- Grassby, A., Hill, M. (1988). *Six Australian Battlefields*. Sydney: Angus & Robertson.
- Greene, G. (1936). *Journey Without Maps*. New York: Penguin.
- Greenwood, E., Harper, N. (1957). *Australia in World Affairs: 1950-55*. Melbourne: F. W. Cheshire.

- Grievies, V. (2003). Windschuttle's Fabrication of Aboriginal history: A view from the Other Side. *Labour History*, 85, 194-199.
- Hardy, F. (1968). *The Unlucky Australians*. Melbourne: Thomas Nelson.
- Hall, E. (2008, 10 December). Carr steadfast in opposition to Human Rights bill. Retrieved June 14, 2011, from: www.abc.net.au/worldtoday/contnet/2008/s2442550.htm.
- Hall, L. (2010, 13th March). Parents 'stopping kids from going to school' at Wadeye. *The Australian*. Retrieved August 18, 2010, from: <http://www.theaustralian.com.au/news/nation/parents-stopping-kids-going-to-school-at-wadeye/story-e6frg6nf-1225840231233>.
- Hardy, F. (1968). *The Unlucky Australians*. Melbourne: Nelson.
- Harding, R., Broadhurst, R., Ferrante, A., Loh, N. (1995). *Aboriginal contact with the Criminal Justice System*. Sydney: Hawkins Press.
- Harris, K. (1999). Aims? Whose Aims? In R. Marples, (Ed). *The Aims of Education*. Pp.1-13, London: Routledge.
- Hart, P. (2008). The limits of crisis exploitation: the NT intervention as a reform boomerang. *Arena Journal*, 29/30, 157-174.
- Hasluck, P. (1970). *Black Australians: A Survey of Native Policy in Western Australia, 1829-1897*. Melbourne: Melbourne University Press.
- Hatzistergos, J. (2008, 12 December). Legislation is not the key to Human Rights. *The Australian*. Retrieved April 28, 2010, from: www.theaustralian.com.au/news/opinion.
- Hawkins, R. A. (2006). Me no go Mally Bulla: Recruiting & Blackbirding in the Queensland Labour trade 1863-1906 by Wal Bird: a Review. *Reviews in Australian Studies*, 1 (4). Retrieved April 10, 2010, from: www.nla.gov.au/openpublish/index.php/ras/article/view/105.
- Hayek, F. A. (1976). *Law, Legislation and Liberty: A New Statement of the Liberal Principles of Justice and Political Economy, Vol 2 The Mirage of Social Justice*, London: RKP.
- Hayek, F. V. (2007). *The Road to Serfdom*. Chicago: University of Chicago Press.
- Hayman, R. (1976). *Leavis*. London: Heineman.
- Healy, G. (2011). May Dunne case unpublished notes.
- Hegel, G. W. F. (1956). *The Philosophy of History*. (J. Sibree. Trans.) New York: Dover.
- Heming, W. (2010, 16 June). String of racist slurs: Johns row broadens. *Brisbane Times*. Retrieved June 16, 2010, from: <http://www.brisbanetimes.com.au/rugby-league/state-of-origin/string-of-racist-slurs-johns-row-broadens-20100615-yd7p.html>.
- Henderson, G. (2004, 7th December). *The Age*. Retrieved august 10, 2010, from: <http://www.kooriweb.org/foley/news/wd8dec04.html>.

- Herbert, B. (2010, 16 April). Mentally ill man dies in Townsville hospital after police handcuffing. AM with Tony Eastley. Retrieved 16 June, 2010, from: <http://www.abc.net.au/am/content/2010/s2874457.htm>.
- Herron, J. (1998, 2nd April). Senate Official Hansard. Retrieved June 10, 2010, from: <http://www.aph.gov.au/hansard/senate/dailys/ds020498.pdf>.
- Herschock, P. D. (2000). Dramatic Intervention: Human Rights from a Buddhist Perspective. *Philosophy East and West*, 50 (1), 9-33.
- Hinchman, L. P. (1984). The Origins of Human Rights: A Hegelian Perspective. *Political Research Quarterly*, 37 (1), 7-31.
- Hinkson, J. (2008). After the Intervention. *Arena Journal*, 29/30, 3-9.
- Hobbes, T. (1651). *Leviathan*. E-books, Adelaide 2007, retrieved May 15, 2010, from: <http://ebooks.adelaide.edu.au/h/hobbes/thomas/h681/>.
- Hollingdale, R. J. (1977). *A Nietzsche Reader*. Harmondsworth: Penguin.
- Hooper, C. (2008). *The Tall Man: Death and Life on Palm Island*. Melbourne: Hamish Hamilton.
- Howard, J. (2005, 25th April). Transcript of the Prime Minister the Hon John Howard at ANZAC Day Dawn Service Gallipoli. Retrieved August 3, 2010, from: <http://pandora.nla.gov.au/pan/10052/200505210000/www.pm.gov.au/news/speeches/speech1353.html>.
- Howard, J. (2006, November). A Tribute to Quadrant. *Quadrant*, 50 (11), 22-24.
- Howson, P. (1999, June). Rescued from the Rabbit Burrow. *Quadrant*, 43 (6) 10-14.
- Hudson, P., Larkin, S. (2010, 1 March). Draft national school curriculum a disaster waiting to happen, says Opposition Education spokesman Christopher Pyne. Retrieved April 2, 2010, from: <http://www.heraldsun.com.au/news/julia-gillard-opens-learning-debate/story-e6frf7jo-1225835373279>.
- Hughes, H. (2007). *Lands of Shame: Aboriginal and Torres Strait Islander 'Homelands' in transition*. Sydney: Centre for Independent Studies.
- Hughes, H. (2008). *Indigenous Education in the Northern Territory*. CIS Policy Monograph 83. Sydney: Centre for Independent Studies.
- Hughes, H., Hughes, M. (2009). *Revisiting Indigenous Education*. CIS Policy Monograph 94. Sydney: Centre for Independent Studies.
- Hughes, H., Hughes, M. (2010a). *Indigenous Employment, Unemployment and Labour Force Participation*. Monograph 107. Sydney: Centre for Independent Studies.
- Hughes, H., Hughes, M. (2010b). *Indigenous Education 2010*. CIS Policy Monograph 110. Sydney: Centre for Independent Studies.
- Human Rights Consultation Committee. (2009). Terms of reference. Retrieved April 28, 2010 from: http://www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/Terms_of_Reference.

- Human Rights and Equal Opportunities Commission. (1997). *Bringing them Home. National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. Canberra: Commonwealth of Australia.
http://www.hreoc.gov.au/pdf/social_justice/bringing_them_home_report.pdf.
- Hume, D. (1739). *A Treatise of Human Nature*. Retrieved August 1, 2010, from:
<http://www.gutenberg.org/dirs/4/7/0/4705/4705.txt>.
- Hunter, E. (2008). Service Solutions or Stagnation? *Arena Journal*, 29/30, 203-217.
- Huntington, S. P. (1993, Summer). The Clash of Civilizations. *Foreign Affairs*, 22-49.
Retrieved August 21, 2009, from:
<http://history.club.fatih.edu.tr/103%20Huntington%20Clash%20of%20Civilizations%20full%20text.htm>.
- Ignatieff, M. (2001). The Attack on Human Rights. *Foreign Affairs*, 80(6), 102-116.
- Izzard, J. (2010, 8th March). The Saved Generations. Retrieved August 12, 2010, from:
<http://www.quadrant.org.au/blogs/history-wars/2010/03/the-stolen-generations>.
- Jackson, A. (2010, 16 June). For some workers, the struggle will never end. *The Age*.
Retrieved 16 June, 2010, from: <http://www.theage.com.au/national/for-some-workers-the-struggle-will-never-end-20100615-yd9p.html>.
- Jay, M. (1973). *The Dialectical Imagination: A History of the Frankfurt School and the Institute of Social Research 1923-1950*. London: Heinemann.
- Jennings, W. I. (1933). Jeremy Bentham. In MacMurray, J. (Ed), *Some Makers of the Modern Spirit*. Pp.128-137. London: Methuen.
- Johns, G., (2006, May). *Aboriginal Education: Remote Schools and the Real Economy*. Kingston: the Menzies Research Centre.
- Johns, G. (2010b). Debate Response: reply by Dr. Gary Johns to Richard Trudgen's article. *Viewpoint*, 2, 15-16.
- Johnson, P. (1993, 19th April). Colonialism is back, and Not a Moment too soon. *New York Times Sunday Magazine*.
- Kahn, J. S. (2001). Anthropology and Modernity. *Current Anthropology*, 42 (5). Retrieved August 21, 2009, from: <http://www.journals.uchicago.edu>.
- Kansteiner, W. (2009). Success, Truth, and Modernism in Holocaust Historiography: Reading Saul Friedländer Thirty-Five Years after the Publication of 'Metahistory'. *History and Theory*, 48 (2), 25-53.
- Katz, J. S. (2002, September). Review: Wildlife Films by Derek Bousé. *Film Quarterly*, 55 (4), 69- 70.
- Kelly, M. (2010, 19th March). Brennan report is a Trojan horse. *The Australian*. Retrieved June 14, 2011, from: <http://www.theaustralian.com.au/news/opinion/brennan-report-is-a-trojan-horse/story-e6frg6zo-1225842545647>.
- Kelly, P. (2009, 4th July). Indigenous Policy on Trial. *The Australian*. Retrieved June 14, 2011, from: <http://www.theaustralian.news.com.au/story/0,25197,25729335-12250,00.html>.

- Kelly, P. (2009, 10th October). Human Rights report poisoned chalice. Retrieved June 14, 2011, from: <http://www.theaustralian.com.au/news/opinion/human-rights-report-poisoned-chalice/story-e6frg74x-1225785180379>
- Kellner, D. (2004). Baudrillard, Globalization and Terrorism: Some Comments on Recent Adventures of the Image and Spectacle on the Occasion of Baudrillard's 75th Birthday. Retrieved 24 May 2010, from: <http://www.gseis.ucla.edu/faculty/kellner/essays/ baudrillardglobalizationterror.pdf>.
- Kennedy, R. (2004). The Affective work of Stolen Generations Testimony: From the Archives to the Classroom. *Biography*, 27 (1), 48-77.
- Kennedy, T. (2000). *Who is Worthy?: The role of conscience in restoring hope to the church*. Sydney: Pluto Press.
- Kenny, C. (2003). The Hindmarsh Island Debate: Reflecting on the Issues. *Bennelong Society Conference 2003*. Retrieved June 14, 2011, from: <http://www.bennelong.com.au/conferences/conference2003/Kenny2003.php>.
- Kidd, R. (2006). *Trustees on Trial: Recovering the Stolen Wages*. Canberra: Aboriginal Studies Press.
- Kipling, R. (1899). *Take up the Whiteman's Burden*. Retrieved June 11, 2010, from: <http://historymatters.gmu.edu/d/5478/>
- Kirby, M. (2008, 21st August). The National Debate about a Charter of Rights and responsibilities – Answering some of the Critics. Text of an address to a President's Luncheon of the Law Institute of Victoria, Melbourne. Retrieved, July 12, 2010, from: <http://www.humanrightsact.com.au/2008/about-the-campaign/welcome-kirby/>.
- Koch, G. (2000). *Siegfried Kracauer: An Introduction*. Princeton: Princeton University Press.
- Kuykendall, R. (1993, June). Hegel and Africa: An Evaluation of the Treatment of Africa in the Philosophy of History. *Journal of Black Studies*, 23 (4), 571-581.
- Lake, M. (2004). The White Man under Siege: New Histories of Race in the Nineteenth Century and the Advent of White Australia. *History Workshop Journal*, 58, 41-61.
- Lane, B. (2008, 17th September). New row over disabled film. *The Australian: HES*. Retrieved July 20, 2010, from: <http://www.capa.edu.au/media/2008/new-row-over-disabled-film>.
- Langton, M. (2002, 4th October). *A New Deal? Indigenous Development and the Politics of Recovery*, Dr Charles Perkins Memorial Oration, University of Sydney. Retrieved, July 20, 2009, from: <http://www.koori.usyd.edu.au/news/langton.pdf>.
- Langton, M. (2007). A heartland of instability: Dancing on our graves. Evatt Foundation. Retrieved June 1, 2010, from: <http://evatt.labor.net.au/publications/papers/195.html>.
- Langton, M. (2008, 3rd September). Essay: Trapped in the Aboriginal reality show. Retrieved May 20, 2010, from: <http://www.crikey.com.au/2008/09/03/essay-trapped-in-the-Aboriginal-reality-show/>.
- Langton, M. (2009). Preface. In Sutton, P. (2009). pp.ii- vi. *The Politics of Suffering*, Melbourne: Melbourne University Press.

- Lankshear, C. (1987). *Literacy, Schooling and Revolution*. London: Falmer Press.
- Lankshear, C. (1997). *Changing Literacies*. Buckingham: Open University Press.
- Leavis, F. R. (1955). *The Great Tradition: George Eliot: Henry James: Joseph Conrad*. London: Chatto & Windus.
- Levi, N. (2007). 'No Sensible comparison'?: The Place of the Holocaust in Australia's History Wars. *History and Memory*, 19 (1), 124-56.
- Levinas, E. (2001). *Totality and Infinity*. London: Athlone Press.
- Lewis, B. (2006, 27th April). Islam and the /West: A conversation with Bernard Lewis. Retried June 10, 2010, from <http://pewforum.org/politics-and-elections/islam-and-the-west-a-conversation-with-bernard-lewis.aspx>,
- Lewis, J. (1968). *Russell: Philosopher & Humanist*. London: Lawrence and Wishart.
- Limb, P. (1996). An Australian Historian at the Dawn of Apartheid: Fred Alexander in South Africa, 1949-50. *The Electronic Journal of Australian and New Zealand History*, 1996, Retrieved July 10, 2006, from: <http://www.jcu.edu.au/aff/history/articles/limb.htm>,
- Liu, H. C. K. (2003a, 25th February). Global Economy: Power and the new world order. *AsiaTimes*. Retrieved August 30, 2010, from <http://henryckliu.com/page90.html>.
- Liu, H. C. K. (2003b, July). The abduction of modernity: Part 1, The Race towards Barabarism. Retrieved July 10, 2010, from: <http://henryck.lipower.com/page56.html>.
- Llewelyn, J. (1995). Emmanuel Levinas: The Genealogy of Ethics. London: Routledge.
- Loh, N., Ferrante, A. (2005) *Aboriginal Involvement in the Western Australian Criminal Justice System: A Statistical Review, 2001*. Perth: University of Western Australia.
- Loos, N. (1975). *Aboriginal-European Relations in North Queensland 1861 -1897*. PhD, James Cook University.
- Luke, A. (2000). Critical literacy in Australia: A matter of context and standpoint. *Journal of Adolescent and Adult Literacy*, 43, 448-461.
- Lukes, S. (1997). Social justice: The Hayekian challenge. *Critical Review*, 11 (1), 65-80.
- McCauley, P. (2010, 15th March). History of a Tragedy. Retrieved August 13, 2010, from: <http://www.quadrant.org.au/blogs/history-wars/2010/03/history-of-a-lie>.
- McIntosh, I. S. (2000). When will we know we are Reconciled? *Anthropology Today*, 16 (5), 3-11.
- Mackie, R. (1980). *Literacy and Revolution: the Pedagogy of Paulo Freire*. London: Pluto Press.
- Mackie, R. (1997), Confusion and Despair: Blanca Facundo on Paulo Freire. Retrieved June10, 2011, from: <http://www.bmartin.cc/dissent/documents/Facundo/Mackie.html>.
- Macintyre, S. (2003, November). Reviewing the History Wars. *Labour History*, 85. Retrieved August 13, 2010, from: <http://www.historycooperative.org/journals/lab/85/macintyre.html>.

- McLaren, P. (2000). *Che Guevara, Paulo Freire and the Pedagogy of Revolution*. Maryland: Rowman & Littlefield.
- McLaren, P., Leonard, P. (eds.). (1993). *Paulo Freire: A Critical Encounter*. London and New York: Routledge.
- McLaren, P., Lankshear, C. (eds.). (1994). *Politics of Liberation. Paths from Freire*. London and New York: Routledge.
- MacLennan, G. (1997). Blog post: BHA: Truth
<http://archivesecon.utah.utah.edu/archives/critical-realism/1997-03-08.181/msg00101.html>
- MacLennan, G. (2000). From the actual to the real: left wing documentary film in Australia. PhD Thesis, Queensland University of Technology
- MacLennan, G., Mitropoulos, M. (2000). Bothering about Othering. Unpublished Paper.
- MacLennan, G. (2010). More Bothering about Othering. Unpublished Paper.
- Macpherson, C. B. (1966). *The Real World of Democracy*. Oxford: Oxford University Press.
- Macpherson, C. B. (1977). *The Life and Times of Liberal Democracy*. Oxford: Oxford University Press.
- McTaggart, J. M. E. (1993). The Unreality of Time in Le Poidevin, R. and MacBeath, M. (Eds). pp.23-34. *The Philosophy of Time*. Oxford: Oxford University Press.
- Magnusson, S. G. (2003). 'The Singularization of History': Social History and Microhistory within the Postmodern State of Knowledge. *Journal of Social History*, 36 (3), 701-735.
- Malezer, L. (2009). Statement by Les Malezer, Chairperson of the Foundation for Aboriginal and Islander Research Action *RELEASE FOR PUBLIC MEDIA - 18 March 2009*
 Australia promises to end racial discrimination.
- Mallaby, S. (2002). The Reluctant Imperialist: Terrorism, Failed States, and the Case for American Empire. *Foreign Affairs*, 81 (2), 2-7.
- Manderson, D. (2008). Not yet: Aboriginal People and the Deferral of the Rule of Law. *Arena Journal*, 29/30, 199- 272.
- Manne, R. (2001a). *In Denial: The Stolen Generations and the Right*. Melbourne: Black Inc.
- Manne, R. (2001b). In Denial: The Stolen Generations and the Right. *Australian Quarterly Essay*, 1 (1), 1-113.
- Manne, R. (2006, 18th June). Windschuttle's Whitewash. *Eureka Street. Com.au*. Retrieved August 10, 2010, from: <http://eurekastreet.com.au/article.aspx?aeod=1094>.
- Mansell M. (2007). The Political Vulnerability of the Unrepresented. In Altman, J. and Hinkson, M. (Eds.). *Coercive reconciliation: Stabilise, Normalise, Exit Aboriginal Australia* (pp.73-84). Melbourne: Arena Publications Association.
- Markovich, D. (2010). Genocide, a Crime of Which No Anglo-Saxon Nation Could be Guilty. *E Law: Murdoch University Electronic Journal of Law*, 1-284. Retrieved June 14, 2011, from:

- http://www.murdoch.edu.au/elaw/issues/v10n3/markovich103_text.html#General%20Intention%20to%20Destroy_T.
- Martyr, P. (2010, 1st March). The Sorrow and the Pity. Retrieved August 13, 2010, from: <http://www.quadrant.org.au/blogs/history-wars/2010/03/the-sorrow-and-the-pity>
- Marx, K. (1844). *On the Jewish Question*. Retrieved June 1, 2010 from: <http://www.marxists.org/archive/marx/works/1844/jewish-question/index.htm>.
- Marx, K. (1852). *The Eighteenth Brumaire of Louis Napoleon*. Retrieved June 5, 2010 from: <http://www.marxists.org/archive/marx/works/1852/18th-brumaire/ch01.htm>.
- Marx, K. (1867). *Capital: Vol 1*. Retrieved October 15, 2011, from: <http://www.marxists.org/archive/marx/works/1867-c1/ch31.htm>.
- Marx, K. (1875). Critique of the Gotha Programme. Retrieved October 15, 2001, from: <http://www.marxists.org/archive/marx/works/1875/gotha/>.
- Marx, K. (1999). Critique of the Gotha Programme. Retrieved August 13, 2010 from: http://www.marxists.org/archive/marx/works/download/Marx_Critique_of_the_Gotha_Programme.pdf.
- May, M. (1994). Aboriginal labour and the cattle industry. Retrieved September 10, 2011 from: http://books.google.com.au/books?id=r_k4AAAAIAAJ&printsec=frontcover&dq=Daun+May&ei=4D1mSvrdApHW1ASZs5H3Ag.
- Maynard, J. (2007). *Fight for liberty and freedom: the origins of Australian Aboriginal activism*. Canberra: Aboriginal Studies Press.
- Melham, D. (1998). Howard's report card: Indigenous affairs. Retrieved June 14, 2011, from: <http://esvc000200.wic061u.server-web.com/lrq/archives/199808/stories/02.html>
- Mercer, P. M., Moore, C. R. (1978). Australia's Pacific Islanders 1906–1977. *Journal of Pacific History*, 13 (2), 90-101.
- Merlan, F. (2009). More than rights. *Inside Story*. Retrieved September 19, 2010, from <http://inside.org.au/more-than-rights/print/>.
- Merritt, C. (2010, 26th March). Proposed rights charter's (sic) has 'hint of a Sunday sermon'. *The Australian*. Retrieved, May 20, 2011, from: <http://www.theaustralian.com.au/business/legal-affairs/proposed-rights-charters-hashint-of-a-sunday-sermon/story-e6frg97x-1225845531814>.
- Milner, A. (1991). *Contemporary Cultural Theory*. Sydney: Allen & Unwin.
- Minogue, K. (1998). Aboriginals and Australian Apologetics. Retrieved August 17, 2010, from: <http://www.samuelgriffith.org.au/papers/html/volume10/v10app1.htm>.
- Moonan, L. (1975). Hume on Is and Ought. *Journal of the History of Philosophy*, 13 (1), 83-98.
- Morgan, J. (2003). Addressing Human Wrongs: A Philosophy-of-Ontology Perspective. *Philosophy East and West*, 53 (4), 575-587.
- Morton, J. (2011, June). The curse of ideology in Aboriginal studies. *The Australian Literary Review*, 6 (5), 12-13.

- Morris, B., Lattas, A. (2010, September). Embedded Anthropology and the Intervention. *Arena*. 107, Retrieved September 18th 2010, from: <http://www.arena.org.au/2010/09/embedded-anthropology-and-the-intervention>.
- Moseley, H. D. (1935). *Report of the Royal Commissioner appointed to investigate, report, and advise upon matters in relation to the condition and treatment of Aborigines*. Perth: Government Printer.
- Muller, K. V. (2007). The Two 'Mystery' Belts of Grand River: A Biography of the Two Row Wampum and the Friendship Belt. *American Indian Quarterly*, 31 (1), 129-164.
- Munro, D. (2007, spring). Review: MacIntyre, S. and Clark, A. (2004). *The History Wars*. New edition. Melbourne: Melbourne University Press. *Journal of Social History*, 786-787.
- Murray, R. (2010, 20th March). Windschuttle challenges Stolen Generations' claim to lost culture. *The Australian*. Retrieved August 10, 2010, from: <http://www.theaustralian.com.au/in-depth/Aboriginal-australia/windschuttle-challenges-stolen-generations-claim-to-lost-culture/story-e6frgd9f-1225842694463>.
- National Aboriginal Health Strategy (1989). [http://www.health.gov.au/iernet/main/publishing.nsf/Content/D5EF8610F608DE87CA25759A00155130/\\$File/health_strat_contents.pdf](http://www.health.gov.au/iernet/main/publishing.nsf/Content/D5EF8610F608DE87CA25759A00155130/$File/health_strat_contents.pdf).
- National Human Rights Consultation. (2009). *Report*. Canberra: Commonwealth of Australia.
- National Indigenous Times Editorial (2009, 2nd April). The Big Read: Body of Evidence. *National Indigenous Times*, 174.
- National Museum of Australia Canberra (n.d.). Dexter Daniels. Retrieved August 21, 2009 from: <http://Indigenoustrights.net.au/person.asp?PID=963>
- NTER Review Board. (2008, 13 October). Northern Territory Emergency Response: Report. Australian Government: Department of Families, Housing, Community Services and Indigenous Affairs. Retrieved May 17, 2010, from: http://www.nterreview.gov.au/docs/report_nter_review.PDF.
- Neville, A. O. (1947). *Australia's Coloured Minority*. Sydney: Winn & Co.
- Newfong, J. (1972, July). The Aboriginal Embassy: Its purpose and aims. *IDENTITY*, 1(5). Retrieved June 14, 2011, from: <http://www.reasoninrevolt.net.au/pdf/a000239.pdf>.
- Nietzsche, F. (1954). On truth and lie in an extra-moral sense, *The Viking Portable Nietzsche*. pp.46-47. (Walter Kaufmann, Trans). New York: Viking Press.
- North Australia Aboriginal Justice Agency. (2008, 17th October). NAAJA Responds to NTER Board Report. Retrieved 10 June, 2010, from: <http://www.naaja.org.au/>.
- O'Gorman, T. (1981, 21st September). 'Police state' games Act. Courier Mail. Retrieved June 14, 2011, from: <http://www.kooriweb.org/foley/images/history/1980s/82games/cm21sep81.html>.
- Om, J. (2010, July). Secret women's business acknowledgment welcomed. ABC News. Retrieved July 5, 2010, from: <http://www.abc.net.au/news/stories/2010/07/05/2944724.htm>.

- O' Malley, P. (1994). Gentle genocide: the government of Aboriginal peoples in Central Australia. *Social Justice*, 21 (4), 46-65.
- Oodgeroo Noonuccal. (1992). *Song of Hope*. Retrieved August 13, 2010, from:
<http://www.poetrylibrary.edu.au/poets/noonuccal-oodgeroo/a-song-of-hope-0719033>.
- Oodgeroo Noonuccal. *Son of Mine*. Retrieved August 13, 2010, from:
<http://www.poetrylibrary.edu.au/poems-book/my-people-a-kath-walker-collection-0771000>.
- Osterhammel, J. (1995). *Colonialism: A theoretical overview*. (translated Shelley Frisch) Princeton: Markus Wiener.
- Owens, J. (2009, 15th December). Filmmaker dispatched to the fence over distorted history. *The Australian*. Retrieved August 16, 2010, from:
<http://www.theaustralian.com.au/news/arts/film-makers-dispatch-historian-to-the-fence-over-distorted-history/story-e6frg8pf-1225810385666>.
- Paine, T. (1995). *The Rights of Man*. UShistory.org. Retrieved June 14, 2011, from:
<http://www.ushistory.org/Paine/rights/>.
- Parham, E. (2010, 4th February). Rights Charter would empower only lobbyists. *The Australian*. Retrieved June 14th, 2011, from:
<http://www.theaustralian.com.au/news/opinion/rights-charter-would-empower-only-lobbyists/story-e6frg6zo-1225826508311>.
- Parham, E. (2010). *Behind the Moral Curtain: The Politics of a Charter of Rights*, CIS Policy Monograph 106. Retrieved June 14, 2011, from:
http://www.cis.org.au/policy_monographs/pm106.pdf.
- Parry, N. (2003, November). Many deeds of terror: Windschuttle and Musquito. *Labour History*, 85. Retrieved August 8, 2010 from:
<http://www.historycooperative.org/journals/lab/85/parry.html>.
- Parry, N. (2007). 'Hanging no good for blackfellow': looking into the life of Musquito. In Macfarlane, I. (Ed). *Transgressions: critical Australian Indigenous histories*. Retrieved August 10, 2010, from:
http://epress.anu.edu.au/aborig_history/transgressions/mobile_devices/pr02.html.
- Partington, G. (2003). Hindmarsh Island and the Fabrication of Aboriginal Mythology. *The Samuel Griffith Society*, 15 (10). Retrieved June 14, 2011, from:
<http://www.samuelgriffith.org.au/papers/html/volume15/v15chap10.html>.
- Partington, G. (2010). The incivility of Marcia Langton: One. *Quadrant*, 54 (4), 69-82.
- Paul, N. (2010, 17th April). Why did this man die? *Townsville Bulletin*. Retrieved August 1, 2010, from:
http://www.townsvillebulletin.com.au/article/2010/04/17/131255_news.html.
- Peace, A. (2003). Hindmarsh Island and the Politics of Anthropology. *Anthropology Today*, 19 (5), 1-2.
- Pearson, C. (2009b, 7th February). Peter Howson, separatism's tireless foe. *The Australian*.
- Pearson, C. (2009a, 18th -19th July). Cold reality trumps the warm inner glow. *The Australian*.

- Pearson, N. (2000). The Light on the Hill: Ben Chifley Memorial Lecture. Retrieved July 14, 2010, from: <http://www.australianpolitics.com/news/2000/00-08-12a.shtml>.
- Pearson, N. (2007, 24th June). White guilt, victimhood and the quest for a radical centre. Big Ideas. Retrieved July 14, 2010, from: <http://www.abc.net.au/rn/bigideas/stories/2007/1955255.htm>. Accessed May 20th, 2011.
- Pearson, N. (2009a, October). Quarterly Essay, Radical Hope, Education and Equality in Australia, from: <http://www.quarterlyessay.com/issue/radical-hope-education-and-equality-australia>.
- Pearson, N. (2009b). *Up From The Mission: Selected Writings*. Melbourne: Black.
- Pearson, N. (2010, July 24th -5th). Adam Smith and Closing the Gap. *The Weekend Australian*.
- Pearson, N. (2011, 28th May). Liberal thinkers are right about power of choice. *The Australian*
- Peet, R. (1991). *Global Capitalism: Theories of Societal Development*. Routledge: London, 1991.
- Pell, G. (2009, 23rd October). Ideology dressed up as social justice. *The Australian*. Retrieved July 14, 2010, from: <http://www.theaustralian.com.au/news/ideology-dressed-up-as-social-justice/story-e6frg6q6-1225790173974>.
- Perloff, R. (2004). Beyond Psychology: Literature and the Arts as Supplements for Understanding, Predicting, and Controlling Behaviour: Thinking outside the Box. *Journal of Business Ethics*, 52 (4), 411-417.
- Perry, M. J. (1997). Are Human Rights Universal? The Relativist Challenge and Related Matters. *Human Rights Quarterly*, 19 (3), 461-509.
- Peters-Little, F., Curthoys, A., Docker, J. Eds (2010). *Passionate Histories: Myth, Memory and Indigenous Australia*. Canberra: ANU Press. Available at: http://epress.anu.edu.au/aborig_history/passionate/pdf/whole.pdf.
- Phillips, G. (2003). *Addictions and Healing in Aboriginal Country*. Canberra: Aboriginal Studies Press.
- Piven, F. (2001). Globalization, American Politics, and Welfare Reform. *Annals of the American Academy of Political and Social Science*, 577 (1). pp.26-37.
- Popper, K. R. (1972). *Objective Knowledge: An Evolutionary Approach*. Oxford: Clarendon Press.
- Plato. *The Republic*, retrieved August 13, 2010, from: <http://classics.mit.edu/Plato/republic.2.i.html>.
- Powell, S. (2000, 11th September). Sloppy study makes falsehoods fact. *The Australian*.
- Pratt, R. H. (1892). The Advantages of Mingling Indians with Whites. Retrieved July 14, 2010, from: <http://historymatters.gmu.edu/d/4929/>.
- Queensland Sugar. (n.d.) Queensland Sugar. Retrieved July 14, 2010, from: <http://www.queenslandssugar.com/page.cfm?pageid=169>.

- Quiggin, J. (2003, 26th January). The 'fabrication' of Aboriginal history: repudiating the past. Retrieved August 24, 2010, from: <http://www.evatt.labor.net.au/news/i69.html>.
- Quilliam, W. (2010). Casting for the 2010 Australian Indigenous Womens Calendar. Retrieved June 10, 2011, from: <http://kokr.facebook.com/topic.php?uid=35473802499&topic=7671> <http://kokr.facebook.com/topic.php?uid=35473802499&topic=7671>.
- Queensland University of Technology. (2001). Reconciliation Statement. Retrieved June 13, 2010, from: <http://www.reconciliation.qut.edu.au/statement/>.
- Ramsey, A. (2005, 1st June). Journey into Downer's dark past. *Sydney Morning Herald*. Retrieved August 26, 2010, from: <http://www.smh.com.au/news/Opinion/A-journey-into-Downers-dark-past/2005/05/31/1117305617682.html>.
- Rawls, J. (1971). *A Theory of Justice*, Cambridge, Massachusetts: Belknap Press of Harvard University Press.
- Raynes, C. (2010, 19th March). Windschuttle and the Stolen Generations. *On line opinion*. Retrieved August 12, 2010, from: <http://www.onlineopinion.com.au>.
- Rebok, S. (2009). La Révolution de Haïti vue par deux personnages contemporains: Le scientifique prussien Alexander von Humboldt et l'homme d'état américain Thomas Jefferson. *French Colonial History*, 10, 75-95.
- Reid, M. (2004). Caste-ing the vote: Aboriginal and Torres Strait Islander voting Rights in Queensland. *Hecate*, 30 (2). Retrieved September 20, 2010, from: www.emsah.edu.au.
- Richards, J. (2008). *The secret war: a true history of Queensland's native police*. Brisbane: University of Queensland Press.
- Rintoul, S. (2006, 14th-15th October). Rough Justice Over Stolen Wages. *Inquirer: The Weekend Australian*, 24.
- Roberts, T. (2005). *Frontier Justice: A History of the Gulf Country to 1900*. Brisbane: University of Queensland Press.
- Robinson, S. (2002). The Unregulated Employment of Aboriginal children in Queensland, 1842-1902. *Labour History*, 82, 1-15.
- Rorty, R. (1989). *Contingency, Irony and Solidarity*. Cambridge: Cambridge University Press.
- Rosen, H. (1977). Out There or Where the Masons Went in M. Hoyles (Ed). *The Politics of Literacy*. London: Writers and Readers Publishing Cooperative.
- Rostow, W.W. (1971). *Stages of Economic Growth*, 2nd ed. New York: Cambridge Uni Press.
- Rowley, K. G., O'Dea, K., Anderson, I., McDermott, R., Saraswati, K., Tilmouth, R., Roberts, I., Fitz, J., Wang, Z., Jenkins, A., Best, J. D., Wang Z., Brown A. (2008). Lower than expected morbidity and mortality for an Australian Aboriginal population: 10-year follow-up in a decentralised community. *Medical Journal of Australia*, 188 (5): 283-287.

- Rowse, T. (2003). Book review Essay: historians and the Humanitarian Critique of Australia's Colonisation. *Australian Journal of Anthropology*, 14 (2), 253-258.
- Rowse, T. (2007). Review: Lands of Shame by Helen Hughes. Retrieved 12 July, 2010, from: <http://www.sisr.net/apo/rowse.pdf>.
- Rozoff, R. (2010, August). Review: *The Politics of Genocide*, Book by Edward S. Herman and David Peterson; New York. Monthly Review Press, 2010. 159 pp. Z Magazine. Retrieved August 30, 2010, from: <http://www.zcommunications.org/the-politics-of-genocide-by-rick-rozoff>.
- Rundle, G. (2009, 15th December). Windschuttle hung out to dry on the rabbit-proof fence. Retrieved August 12, 2010, from: <http://www.crikey.com.au/author/guyrundle/>.
- Ryan, L. (2003). The Right Book for the Right Time? *Labour History*, 85, 202-206.
- Ryan, L. (2010). 'Hard Evidence': the debate about massacre in the Black War in Tasmania. (Eds.). Peters-Little, F. et al (2010). *Passionate Histories: Myth, Memory and Indigenous Australia*, pp.39-50. Canberra: ANU Press.
- Said, E. (1995). *Orientalism: Western Conceptions of the Orient*. Harmondsworth: Penguin.
- Said, E. (2000). Problems of Neoliberalism. Retrieved September 5, 2010, from: <http://www.zcommunications.org/problems-of-neoliberalism-by-edward-said>.
- Sandall, R. (2010, 9th July), Review. Retrieved June 10, 2011, from: <http://www.quadrant.org.au/blogs/history-wars/2010/07/roger-sandall-on-windschuttle>.
- Sapir, E. (1909). Medicine Song. Retrieved September 5, 2010, from: http://www.archive.org/stream/wingserpent007859mbp/wingserpent007859mbp_djvu.txt.
- Sarra, C. (2003). 'Young and Black and Deadly: Strategies for Improving Outcomes for Indigenous Students'. Paper No.5 in the Quality Teaching Series by the Australian College of Educators,
- Sarra, C. (2005). Strong and Smart: Reinforcing Aboriginal Perceptions of Being Aboriginal at Cherbourg State School. Doctoral Dissertation, Murdoch University.
- Sarra, C. (2009, 8th August). New narrative tells of brighter future together. *The Australian*. Retrieved June 13, 2010 from: <http://www.theaustralian.com.au/news/features/new-narrative-tells-of-brighter-future-together/story-e6frg6z6-1225759141388>.
- Sarra, G. (2007). Untitled Doctorate of Creative Industries thesis, Queensland University of Technology.
- Saunders, K. (1995). Inequalities of Sacrifice: Aboriginal and Torres Strait Islander Labour in Northern Australia during the Second World War. *Labour History*, 69, 131-148.
- Sayer, D. (1991). *Capitalism & Modernity: An excursus on Marx and Weber*. London: Routledge.
- Schwarten, E. (2010, 16th April). Family questions man's death in hospital. *Sydney Morning Herald*. Retrieved June 16, 2010, from: <http://news.smh.com.au/breaking-news-national/family-questions-mans-death-in-hospital-20100416-siv1.html>.

- Schwartzberg, M. (2007). Jeremy Bentham on Fallibility and Infallibility. *Journal of the History of Ideas*, 68 (4), 562-586.
- Scott, A. (1997). Modernity's machine metaphor. *The British Journal of Sociology*, 48 (4), 561-575.
- Shanahan, A. (2009, 4th April). Charter powwows are nothing but bumpf. *The Australian*. Retrieved July 12, 2010, from: www.theaustralian.com.au/news/opinion/.
- Shanahan, D. (2009, 27th August). John Howard rejects bill of rights as 'buck-passing'. *The Australian*. Retrieved July 12, 2010, from: <http://www.theaustralian.com.au/business/legal-affairs/john-howard-rejects-bill-of-rights-as-buck-passing/story-e6frg97x-1225766612439>.
- Shaw, P. (2009). Seven Seasons in Aurukun: My unforgettable time at a remote Aboriginal school. Sydney: Allen & Unwin.
- Shestack, J. (1998). The Philosophic Foundations of Human Rights. *Human Rights Quarterly*, 20 (2), 201-234.
- Sidgwick, H. (1967). *History of Ethics*. New York: MacMillan.
- Simons, M. (2003). The Hindmarsh Island Affair and Australian Anthropology. *Sydney Papers*, 15 (2), 150-159.
- Simpson, J., Caffery, J., McConvell, P. (2009). Gaps in Australia's Indigenous language policy: dismantling bilingual education in the Northern Territory. Australian Institute of Aboriginal and Torres. Strait Islander Studies. Retrieved July 17, 2010, from: <http://www.aiatsis.gov.au/research/docs/dp/DP24.pdf>.
- Smallwood G and MacLennan G (2009) online blog [Marxism] *Anthropology, Narratology & the politics of Indigenous Suffering* <http://archives.econ.utah.edu/archives/marxism/2009w30/msg00321.html>
- Smallwood G and MacLennan G (2009b) online blog *Response to Pearson Quarterly* <http://chrissarra.wordpress.com/2009/10/02/response-to-pearson-quarterly/>
- Smithers, G. D. (2009). The 'Pursuits of the Civilized Man': Race and the Meaning of Civilization in the United States and Australia, 1790s-1850s. *Journal of World History*, 20 (2), 245-272.
- Snyder, M. (2010, 15th July). 22 Statistics That Prove the Middle Class Is Being Systematically Wiped Out Of Existence In America. *The Business Insider*. Retrieved July 24th, 2010, from: <http://www.businessinsider.com/22-statistics-that-prove-the-middle-class-is-being-systematically-wiped-out-of-existence-in-america-2010-7>.
- Sowell, T. (1999). *The Quest for Cosmic Justice*. New York: Touchstone.
- Spector, J. (2003). Value in Fact: Naturalism and Normativity in Hume's Moral Psychology. *Journal of the History of Philosophy*, 13 (1), 83-98.
- Spencer, S. (2005, 11th March). Gypsies and Travellers: A Draft Strategy for the CRE in Scotland, 2005 – 2007. Retrieved June 13, 2010, from: www.srec.org.uk/srec_reports_download.asp?id=17.
- Spragens, T. A. (1993). The Antinomies of Social Justice. *The Review of Politics*, 55, 193-216.

- Stanton, S. (1999, July-September). Time for Truth: Speaking the Unspeakable – Genocide and Apartheid in the 'Lucky' Country. *Australian Humanities Review*, 14: Retrieved September 1, 2010, from: <http://www.lib.latrobe.edu.au/AHR/archive/Issue-July-1999/stanton.html>.
- Stearns, P. N. (2003). Reassuring 'White Australia': A Review of Windschuttle, K. (2002). *The Fabrication of Aboriginal History: Volume One, Van Diemen's Land 1803-1847*. Sydney: Macleay Press. *Journal of Social History*, 37 (2), 493-505.
- Stringer, R. (2007). A Nightmare of the Neocolonial Kind: Politics of suffering in Howard's Northern Territory Intervention. *Borderlands e-journal*, 6 (2).
- Sutton, P. (2009). *The Politics of Suffering*. Melbourne: Melbourne Uni Press.
- Tagg, J. (1988). *The Burden of Representation: Essays on Photographies and Histories*, London: MacMillan.
- Tatz, C. (1996). 'Turkish Denial of the Armenian Genocide'. Centre for Comparative Genocide Studies: Macquarie University.
- Tatz, C. (1999). Genocide in Australia. An AIATSIS Discussion Paper. Retrieved August 17, 2010, from: <http://www.aiatsis.gov.au/research/docs/dp/DP08.pdf>.
- Tatz, C. (2008). Aboriginal Education Again. *The Sydney Institute Quarterly*, 34, 14-18.
- Tatz, C. (2009). Aboriginal Education Again. Retrieved October 15 from: http://findarticles.com/p/articles/mi_hb3326/is_1_2009/ai_n35529852/.
- Taylor, J. (2010). Demography as Destiny: Schooling, work and Aboriginal Population Change at Wadeye. *Centre for Aboriginal Economic Policy Research*. CAEPR Working Paper No. 64/2010. Canberra: ANU.
- Tedmanston, T. (2008). Isle of exception: sovereign power and Palm Island. *Critical Perspectives on International Business*, 4 (2/3), 142-165.
- Temple, C. (2005). Critical Thinking and Critical Literacy. *Thinking Classroom*, 6 (2), 15-21.
- The Australian. (1972, 26th January). Price on our Guilt, *The Australian*.
- The Australian. (2008, 4th December). Charter of Wrongs. Retrieved April 28, 2010, from: www.theaustralian.com.au/news/charter-of-wrongs.
- The Australian. Remote healthy food sales are up Macklin insists. Retrieved September 20, 2010, from: <http://www.theaustralian.com.au/news/nation/remote-healthy-food-sales-up-macklin-insists/story-e6frg6nf-1225876211261>.
- The Australian. (2011, 15th April). Who tweets for Aborigines: A bitter struggle for authority in Indigenous Australia. Retrieved April 15, 2011, from: <http://www.theaustralian.com.au/news/opinion/who-tweets-for-Aborigines/story-e6frg71x-1226039363899>.
- The Queenslander. (1880). The Way We Civilise; Black and White; the Native Police: A series of Articles and Letters reprinted from the Queenslander. Retrieved June 6th, 2011, from: <http://nla.gov.au/nla.ans-f14656>.

- Tomasi, J. (2007). Hayek on Spontaneous Order and the Mirage of Social Justice, the 2007 Hayek Lecture, Manhattan Institute. Retrieved April 10, from: <http://www.manhattan-institute.org/html/hayek2007.htm>.
- Tonkinson, R. (2005). The Hindmarsh Island Affair, in Charlesworth, M. et al. (eds). *Aboriginal Religions in Australia: an Anthology of Recent Writings*. Pp.247-275 Farnham: Ashgate Publishing Ltd.
- Torrey, E. F. (1983). *Surviving Schizophrenia: A Family Manual*. New York: Harper and Row.
- Totten, G. (2005). *Zitkala-Sa and the Problem of Regionalism: Nations, Narratives, and Critical Traditions*. *The American Indian Quarterly*, 29 (1), 84-123.
- Townshend, C. (1988). The Defence of Palestine: Insurrection and Public Security, 1936-1939. *The English Historical Review*, 103 (409), 917-949.
- Trudgen, R. (2010a). Traditional Knowledge: Helping to Close the Gap. *Viewpoint*, 2, 10-14.
- Trudgen, R. (2010b). Debate response: reply by Richard Trudgen to Dr Gary John's Article. *Viewpoint*, 2, 17-19.
- UNDHR. (1948). Preamble. Retrieved April 10, from <http://www.un.org/en/documents/udhr/>.
- United Nations. (2007, 13th September). Declaration on the Rights of Indigenous Peoples. Retrieved 28 April, 2010 from: <http://www.un.org/esa/socdev/unpfien/drip.html>.
- Van Krieken, R. (2004). Rethinking cultural genocide: Indigenous child removal and settler-colonial state-formation. *Oceania*, 75(2), 125-151.
- Vasak, K. (1963). The European Convention of Human Rights Beyond the Frontiers of Europe. *The International and Comparative Law Quarterly*, 12 (4), 1206-1231.
- Vitale, L. (1997, September 3rd-6th). Mariátegui's Contemporary Relevance and His Limitations Concerning the Original Peoples. Presentation at the International Symposium on AMAUTA and Its Period', Lima. Retrieved October 5, 2010 from: <http://www.socialistvoice.ca/?p=1344>.
- Wade-Marshall, D., Loveday, P. (1985). *Employment and Unemployment*. Darwin: Australian National University.
- Wallerstein, I. (1979). *The Capitalist World-Economy*. Cambridge University Press: Cambridge.
- Warner, R. (1958). *The Greek Philosophers*. Ontario: Mentor.
- Waters, J. (2008). *Gone for a Song: A death in custody on Palm Island*. Sydney: ABC Books.
- Watson, J. (2010). *Palm Island: Through a Long Lens*. Brisbane: Aboriginal Studies Press.
- Watson, N. (2007). Shamed by the lack of a meaningful dialogue. *Emja*. Retrieved July 12, 2010, from http://www.mja.com.au/public/issues/187_11_031207/watson_fm.html.
- Watson, T. (2007). Laughing at Aborigines? Tough Questions for QUT. Youtube Video. Retrieved July 30, 2010 from: <http://www.youtube.com/globaldawning#p/u>.
- Weiner, J. F. (1997). 'Bad Aboriginal' Anthropology: A reply to Ron Brunton. *Anthropology Today*, 13 (4), 5-8.

- Weiner, J. F. (1999). Culture in a Sealed Envelope: The Concealment of Australian Aboriginal Heritage and Tradition in the Hindmarsh Island Bridge Affair. *The Journal of the Royal Anthropological Institute*, 5 (2), 193-210.
- Weiner, J. F. (2004, June). Anthropology and Hindmarsh Island Bridge: A Response Peace. *Anthropology Today*, 20 (3), 4.
- Westcott, S. M. (1991). Educate to Americanize: Captain Pratt and Early Indian Education, *Change*, 23 (2), 45-46.
- Wheen, F. (1999). *Karl Marx*. London: Fourth Estate.
- White, H. (1974). The Historical Text as Literary Artifact. *Clio*, 3 (3), 277-303.
- Williams, G. (2008, 17 December). Enshrining our rights. *ABC The Drum Unleashed*. Retrieved May 1, 2010, from: www.abc.net.au/unleashed/stories/s2447573.htm.
- Williams, R. (1971). *Culture and Society 1780-1950*. Harmondsworth: Pelican.
- Willis, M. (2010, August). Indicators used internationally to measure Indigenous justice outcomes. *Indigenous Justice Clearing House*. Retrieved August 18, 2010, from: www.Indigenousjustice.gov.au.
- Wilson, T. J. (2004). Racism, Moral Community, and Australian Aboriginal Autobiographical Testimony. *Biography*, 27 (1), 78-103.
- Wilson-Miller, J. (2005). Conflict in the Valley: The Triumph of the Wonnarua. Retrieved June 10, 2010 from: <http://www.aare.edu.au/05pap/wil05317.pdf>.
- Windschuttle, K. (1994). *The Killing of History: How a Discipline is being Murdered by Literary Critics and Social Theorists*. Sydney: Macleay Press.
- Windschuttle, K. (2002). *The Fabrication of Aboriginal History, Volume One: Van Diemen's Land 1803-1847*. Sydney: Macleay Press.
- Windschuttle, K. (2004, 6th December). White Australia's Myths. *The Australian*. Retrieved April 10, from: <http://www.sydneyle.com/White%20Australia's%20myths.htm>.
- Windschuttle, K. (2008, February). Don't let the facts spoil the day. *The Australian*. Retrieved August 12, 2010, from: <http://www.theaustralian.com.au/higher-education/opinion-analysis/dont-let-facts-spoil-the-day/story-e6frgcko-111115509643>.
- Windschuttle, K. (2009). *The Fabrication of Aboriginal History, Volume Three: The Stolen Generations 1881-2008*. Sydney: Macleay Press.
- Windshuttle, K (2010, 21st May). Holes in the Rabbit-Proof Fence. *Quadrant on line*. Retrieved November 26th 2011 from www.Quadrant.org.au.
- Woolford, A. (2009). Ontological Destruction: Genocide and Canadian Aboriginal Peoples. *Genocide Studies and Prevention*, 4 (1), 81-97.
- Wright, A. (2009). Keeping Homelands Alive: Evidence that supports the continued resourcing of dispersed settlements. CLC Briefing paper. Retrieved July 17, 2010, from: http://www.clc.org.au/Media/issues/Outstations_briefing_paper.pdf.

- Yarrow, A. (2009). A review. Retrieved July 16, 2010, from:
<http://reviews.mediaculture.org.au/modules.php?name=News&file=article&sid=3374>.
- Yeats, W. B. (1916). Easter, 1916. Retrieved October 15, 2011, from: <http://www.online-literature.com/yeats/779/>.
- Zambelli, P. (1985, December). From Menocchio to Piero Della Francesca: The work of Carlo Ginzburg. *The Historical Journal*, 28 (4), 983-999.