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1. The Aboriginal Movement

Before the arrival of European settlers in 1788, Aboriginal Australians occupied the whole of the continent under a system of land ownership with clear rules for rights of occupancy, use and inheritance, which were as effective as any in the world. Because there were no domesticable native animals on the continent, it was not appropriate to abandon hunting and gathering and develop settled agricultural communities; the 'neolithic revolution' was neither possible nor desirable. However, in their traditional nomadic societies, Aborigines ate better than the vast majority of Europeans in 1788, and normally had only to work three or four hours each day to maintain this standard.¹ The European occupation of this continent, which has almost wholly destroyed the Aboriginal system of land ownership and traditional way of living, was achieved by a long series of acts of aggression.² According to Justices Deane and Gaudron in the Mabo Judgement of 1992:

The acts and events by which that dispossession ... was carried into practical effect constitute the darkest aspect of the history of this nation. The nation as a whole must remain diminished unless and until there is an acknowledgement of, and retreat from, those past injustices.³

In denial: white society and indigenous Australians

As Robert Manne has recently observed, large sections of Australian society are 'in denial' in relation to the facts of dispossession, the resulting extent of indigenous disadvantage and the role of settler Australians in causing and perpetuating this disadvantage. In particular, Manne has drawn explicit comparisons between 'holocaust denial' and the refusal on the part of a right-wing political and intellectual establishment to concede the extent to which Aboriginal children were forcibly removed from their families during much of the twentieth century.⁴

A process of 'racialisation' in Australian society since 1788 has resulted in the continuing oppression of Aborigines and reluctance on the part of white Australians to acknowledge that oppression. The vast majority of non-indigenous Australians have been racialised to varying degrees. In December 2000 the Final Report of the Council for Aboriginal Reconciliation noted: 'Despite major advances, Aboriginal people and Torres Strait Islanders often still face prejudice when trying to rent a home, find a job, hire a taxi, get service in shops and banks, and when doing the simple everyday things that most Australians take for granted.' This Report also expressed concern that, despite overwhelming evidence that Aboriginal and Torres Strait Islander peoples are the most disadvantaged Australians, almost half of Australian people believe that they are not disadvantaged.⁵

Pauline Hanson's One Nation Party expresses such views in extreme form. In her maiden speech in September 1996 she claimed indigenous Australians were privileged recipients of special benefits. In the previous financial year the federal government had spent \$1.5 billion on indigenous programs; in the same year it cost taxpayers \$6.2 billion to run the Department of

Veterans Affairs. Moreover, the indigenous affairs programs funded by such money were substitutes for those given to the rest of the community, for example, in health, water, roads and other infrastructure that state and local governments leave to the specialised federal indigenous bodies.⁶

On 2 June 1998 Hanson again complained in parliament: ‘Identifying as an Aboriginal has definite financial advantages, as Aboriginality allows them to claim a share of the booty of the native title scam as well as various other publicly funded perks not available to other Australians.’ Yet statistics show that the ‘booty’ of Aboriginality includes: a life-span on average 20 years shorter than other Australians; appalling health problems, including a maternal mortality rate eight times the national average and an infant mortality rate three times the national average; an unemployment rate of 23 per cent compared with 8 per cent in the overall population (because of remoteness, poor education and decline in rural industries); a 9 per cent likelihood of attending a tertiary institution (compared with nearly 50 per cent for Australians generally); and the high probability of living in a community where clean water, adequate housing and sewerage are unavailable, because local councils have long persisted in deliberately zoning Aboriginal areas of towns as beyond the responsibility of the council.⁷ Thus, while well-known chain smoker Kerry Packer can take off for heart surgery in New York aboard a private jet replete with defibrillator and ECG device, Aboriginal children still die from Third World diseases.⁸

The state and indigenous Australians

Jan Pettman argues that throughout post-settlement history, Aborigines were constructed as ‘the Other’ in ideologies of race and nation and as part of the process of developing policy for their management. ‘Aboriginal people were denied agency, for they were not seen as purposive or creative actors in their own right’. Over more than two centuries, white Australians therefore found various ways of dealing with what they defined as the ‘Aboriginal problem’: the ‘killing method’ of the days of pastoral expansion; ‘segregation’ on reserves from late last century until the 1940s; ‘assimilation’ from the 1940s to the late 1960s, fading into ‘integration’ in the 1970s; then ‘self-determination’ from the 1980s, until the Howard Government undermined even this semblance of Aboriginal control of Aboriginal affairs.

At every stage, white Australians have made the decisions that affected the lives of Aboriginal people. Not only were they dispossessed of the rights they once enjoyed in their traditional societies, until two to three decades ago indigenous Australians were not permitted to live and work where they chose, to marry whomever, custody of their children, equal pay for equal work, to receive welfare benefits, to consume alcohol, to receive education, to vote and to control personal property. As the Aborigines Progressive Association stated in 1965, the ‘pitiful condition’ of Aboriginal people was the result of the short-sighted, inflexible, unenlightened and bureaucratic policies of the Aborigines’ Protection Board and the pathetic ‘head-in-the-hole’ attitude of the general community.¹⁰ It was not until the 1970s that the policy of forcible removal of indigenous children was abandoned. Formal barriers to other forms of equality were only dismantled between the 1960s and early 1980s.

In 1979, the Aboriginal Treaty Committee listed the following reasons why Aborigines and

Islanders remained disadvantaged: their affairs are controlled by white-imposed structures and laws; their requests for real self-determination are not being heard; their lives are complicated by different and often conflicting policies at state and federal levels; their well-being is dependent on the good will of the government of the day; and their interests do not always prosper under government programmes because a significant proportion of funding is used to maintain the bureaucracy and projects are often inappropriate and introduced without consultation with the people concerned.¹¹

During the 1970s and 1980s, about three-quarters of the federal government money allocated to Aboriginal Affairs went into the pockets of white bureaucrats.¹² Cohn Tatz argued at this time that the way money was spent on Aboriginal Affairs was symptomatic of the major problem in Australian race relations:

White society unilaterally defines the problems, prescribes the policy dicta, enacts the laws, creates the administrative machinery and determines the nature, content, personnel and flavour of remedial programs... Aboriginal Affairs have always been, and still remain, a white activity. This tradition has become a deeply ingrained cultural norm.¹³

The whole setup was, and is, premised on the racist assumption that whites know best. The solutions favoured are typically welfare-oriented, which tend simultaneously to increase Aboriginal dependence and white control.¹⁴ As Robbie Thorpe has put it from the Aboriginal side:

How can we talk about self-determination when we are caught up in welfare... While the government spends money on welfare for our people, and sets up its governing bodies, it is dictating the terms of our existence.¹⁵

In 1989, the Hawke government announced its plans for Aboriginal 'self-determination': the winding up of the Department of Aboriginal Affairs and the Aboriginal Development Corporation and their replacement with a statutory authority, the Aboriginal and Torres Strait Islander Commission (ATSIC) of 20 members, 17 elected by 1200 councillors from 60 regional councils around the country, and three, including the chairperson, appointed by the Government. ATSIC has the power to formulate and implement policies for all Aborigines and Torres Strait Islanders; the regional councils set priorities for their own people in their own regions. But the Commission is responsible to the Minister for Aboriginal Affairs, who retains power of veto over ATSIC operations. Hawke described ATSIC as advancing both the great principles of self-management and ministerial accountability, as though no conflict necessarily existed between the two principles.¹⁶

Some Aboriginal communities were enthusiastic about the proposals, because they were inclined to the view that any degree of self-management would be an improvement on the white person's bureaucracy embodied in the old Department. Yami Lester, head of the Pitjantjajara Council, said ATSIC was a step in the right direction of self-management, and that politicians opposing it were not wanting to lose power over Aboriginal people. Barbara Flick of the Combined Aboriginal Organisations of Alice Springs described ATSIC as 'an opportunity for Aboriginal people to take control of the bureaucrats and be in a position to make our own decisions about

matters affecting our lives'; and Pat Dodson, Director of the Central Land Council, believed it was 'a mechanism that goes some way down the path of self determination'.⁷ Lowitja O'Donoghue, the first Chairperson of ATSIC, was confident that 'in the future the policy decisions will be made by Aboriginal people'.⁸ Other communities were concerned about the proposal. In September 1990, the Northern Land Council seriously considered boycotting the ATSIC elections, fearing ATSIC would compromise Aboriginal people's sovereign rights by threatening the power of the land councils. As it turned out, voting for this first election was low, with only about one third of indigenous Australians voting. There was considerable suspicion about the Ministerial power of veto. Bertie Button, deputy chairman of the Cherbourg Community Council, believed ATSIC would be another form of 'bureaucracy imposed on Aborigines to suit white Australia' rather than a serious attempt to embrace ~ The indigenous newspaper, *Koorier*, feared that the same white public servants would be working under the ATSIC regime and they could not understand Aboriginal identity, culture and needs. 'They still have this inane ability to pre-determine our lives.'²⁰ Scepticism about ATSIC was apparent in the proclamation of the Aboriginal Provisional Government in July 1990, by Michael Mansell and others, based at the Tasmanian Aboriginal Centre, which announced that it stood 'for the right of Aboriginal people to have the ultimate say over their destiny' 21

A few years after its establishment Gary Foley argued that ATSIC had undermined the strong Koori political movement of the 60s and 70s. 'A vast amount of ... money was spent subverting, buying off and compromising the key people in Koori communities all over Australia.'²² Currently, Gary Foley's website explains the acronym ATSIC as 'Aborigines Talking Shit in Canberra'. ATSIC was nonetheless regarded as a symbol of too much indigenous self-determination by the Howard Government, which moved quickly upon accession to government in 1996 to severely curtail the budget and powers of ATSIC. In such circumstances, most indigenous activists have been concerned to defend ATSIC and its operations against Howard Government attacks upon it and its personnel.

As Robbie Thorpe suggested when ATSIC was established, there was a certain contradiction in the notions of self-determination and the continuation of welfare-oriented solutions. Over the past few years Noel Pearson has argued that welfare, brought to Aboriginal communities as a gift of citizenship, has increased white domination of indigenous Australians by encouraging 'the breakdown of responsibility in Aboriginal society'. While emphasising his support for the welfare state as a progressive political and social achievement, he argues that indigenous Australians have had 'passive welfare injuries inflicted upon them', because they have experienced a marginal aspect of that welfare state: income provisioning for people dispossessed from the real economy, whether traditional or market. Thus indigenous people's experience of the welfare state has been destructive. It has increased the social disadvantages they suffer in comparison to the wider society. It has led to epidemics of substance abuse, which has increased social confusion and made people less able to organise themselves, politically and socially.²³

The particular problem of the Aboriginal movement

The Aboriginal movement is the most particular of any of the new social movements in this study: its support base is extremely limited and official policies towards indigenous Australians have long contributed to the fragmentation of their communities and rendered political

mobilisation difficult.

In the first instance, white Australians have guaranteed the numerical isolation of indigenous Australians. The main causes of the drastic decline of the 1787 Aboriginal population of possibly two million were smallpox and venereal diseases introduced by whites; the economic and social effects of land loss, which led to poverty and despair; and direct killings by whites.²⁴ The 1996 Census counted only 386,000 Aborigines and Torres Strait Islanders. Aborigines constitute, therefore, about two per cent of the population. Although this represented 33 per cent growth since 1991, due in part to increased identification of indigenous people in Census counts,²⁵ they are still numerically negligible, a social movement with no electoral leverage, except insofar as they can mobilise broader support. But how broad must it be? Despite the fact that the recent reconciliation movement has indicated the existence of a substantial body of white opinion in favour of indigenous rights, the Howard Government has treated the movement with contempt.

There has also been a long history of official political marginalisation of the few indigenous Australians remaining, resented and opposed by Aboriginal political organisations. It was not until 1949 that some Aborigines were given the right to enrol and vote in federal elections, providing they were entitled to enrol for state polls (some were, some were not) or had been in the defence forces. In 1962 Aborigines in Queensland, Western Australia and the Northern Territory became entitled to enrol and vote in federal elections. Until 1967, Aboriginal Australians were formally excluded from Australian citizenship and were not counted in the Census. In the Northern Territory it was 1978 before the provision for *voluntary* electoral enrolment for Aborigines was abolished, thus placing Aboriginal voters on an equal footing with white voters. In 1983, the Commonwealth Electoral Act was amended to make electoral enrolment and voting compulsory for Aborigines.

Several Aborigines have been elected as endorsed candidates for the major parties to parliaments throughout Australia. Senator Neville Bonner for the Liberal Party was the first, in 1971. Senator Aden Ridgeway, now Deputy Leader of the Australian Democrats, was the second, elected on 3 October 1998 and taking up his position from 1 July 1999. Independent Aboriginal candidates, however, have all failed to be elected, except at local government level in some areas. The prospects for increased Aboriginal representation in state and federal politics are not especially bright. The Labor Party in the Northern Territory rejected a proposal in 1983 that it nominate Aboriginal candidates in all seats with a majority of Aboriginal voters, which could well have secured more Aboriginal Members of Parliament.²⁶

The numerical and political isolation of indigenous Australians, combined with the effects of economic weakness and social dislocation, renders the Aboriginal movement more or less impotent within the parliamentary political system. Our liberal democracy offers no scope for indigenous Australians to effect the changes they desire, because Aborigines do not have the numbers to apply pressure on the electoral process, either directly through the election of candidates representing specifically Aboriginal interests or indirectly through the weight of Aboriginal opinion. Many Aborigines see no point at all in voting.²⁷ Michael Mansell puts it this way: 'How many Aborigines could we possibly get into Parliament? Could we ever gain a majority? ... is it not time to refuse to participate in the farce and make a stand?'²⁸ There are also

many 'divide-and-rule tactics' employed against indigenous Australians, especially activists. In the past, when Aborigines stood up for their rights, the stock response on the part of white Australians was that the trouble was caused by a handful of agitators stirring up discontent amongst an otherwise happy people.²⁹ Nowadays, white commentators still attempt to undermine the Aboriginal movement by suggesting it is not representative or that sections of it lack authenticity. And political disagreement amongst indigenous activists is used to discredit all their viewpoints, as though only non-indigenous Australians are allowed to have differences of opinion. For example, in October 1998 Aboriginal Affairs Minister John Herron said an apology will never happen and that indigenous Australians must first achieve reconciliation among themselves to appease deep-rooted hostilities between 'traditional' and 'mixed-blood' Aborigines.³⁰

Indigenous Australians have been persistently subjected to linguistically racist categorising designed, amongst other purposes, to divide them from each other. Cathy Prior has recently described the process as 'that artificial division that split many families down the middle' ~ It was also used to fragment indigenous resistance. In *How the English Language is used to put Koories down, deny us rights, or is employed as a political tool against us*, Eve Fesl refers to the political motives behind the absurd classifications:

Everybody in Australia is racially mixed, so why are Koories singled out to be divided into part-, quarter, half-caste or full blood?... these terms were used ... to divide and rule us. These terms are extremely racist as they were first applied because white people believed that they were superior to us and that if we had some white racial mixture, we were better than those Koories who had a very dark skin colouring ... For a while some of us were convinced that to be black or dark was to be inferior. However ... Koories regardless of skin colouring got together to work for the benefit of our people throughout Australia. Because we all got together, the racists and some politicians are now trying to divide us again, this time by telling us that the very dark people are the Koories and that for a Koorie to be fairer in colouring is to be ... not *real*.

Often, still, whites impugn the integrity of indigenous leaders by questioning their racial credentials. In these instances we see a case of how racism upholds stereotypes by shifting the criteria of Aboriginality to create categories of convenience for the dominant race, to deny Aboriginal identity to educated, urban or non-traditional people when this can be used to ignore their political claims.³²

The legacy of racism for Aborigines is not only their current condition but also the belief or assertion on the part of many Australians that Aborigines have not been mistreated. This is a situation of double jeopardy, leaving the Aboriginal movement potentially worse-placed to effect social change than practically any other social movement, while needing it more than any other social movement. How, then, can the Aboriginal movement achieve its aims? It has no reason to have faith in white good will and yet, without white public opinion on side, it can get nothing out of the political system. In this situation the strength of the reconciliation movement, its problems and shortcomings notwithstanding, becomes especially significant. Yet, at the same time, the Aboriginal movement has good reasons to continue to mobilise separately from the reconciliation movement and to set its own priorities and objectives.

The development of the Aboriginal movement

As a social movement, the Aboriginal movement has had to cope with the immense difficulties attendant upon the destruction, discrimination and disadvantage endured by indigenous Australians in all aspects of existence: economic, political, social and cultural. It expresses the desire of Aborigines to rid themselves of their very serious 'white problem' by achieving true equality and again becoming independent of white Australians. Its strategy and tactics assume whites will never voluntarily grant equality and independence, having failed over more than two centuries to make adequate amends for the damage inflicted on indigenous society. As Charles Perkins long insisted: 'We are our own salvation ... Our destiny is in our own hands ... We cannot leave it to churches, government, international pressures, dreams or the goodwill of others.'³³

The Aboriginal response to white control has been the development of an autonomous social movement, which embraces tactics of self-help or self-management and the political principles of self-determination. However, success for the Aboriginal movement as a social movement entails negotiation, possibly compromise, with the state, persuading it to part with large sums of money with fewer rather than more strings attached, to fund land rights and Aboriginal projects in such a way that whites cease to control Aborigines. Ironically, such independence can only be granted to indigenous people by non-indigenous people; entrenched power relations therefore place limits on the extent to which the Aboriginal movement can operate autonomously.

The Aboriginal movement, since 1788, has always aspired to organise autonomously. Indeed, between World Wars One and Two Aboriginal political mobilisation was Aboriginal-led, though its demands focused on civil rights: the attainment of formal equality for indigenous Australians with white Australians. The desire for autonomy has entailed, most obviously, the desire to formulate their own demands and run their own affairs, but it has also involved a determination to maintain indigenous identity. Even while arguing primarily for equal rights in the period up to 1967, indigenous activists were adamant that Aboriginal Australians wished to retain their identity and to resist assimilationist pressures. As Doug Nicholls announced in 1958: 'we want to identify ourselves as a people . . . We are fighting to keep ourselves as a people'

The civil rights movement, 1922-1967

The Australian Aboriginal Progressive Association was established in New South Wales in 1922. It held large meetings, particularly on the north coast of the state, which demanded full citizenship rights for Aboriginal people. It was active in Sydney from about 1924 to 1927 under the leadership of Fred Maynard, and was hounded by police and forced to disband. The Aboriginal movement in New South Wales achieved a higher profile in the late 1930s with the formation of the Aborigines' Progressive Association, which published *Abo Call* and was supported by sections of the trade union movement and the Communist Party. In 1932 the Australian Aborigines League was formed in Melbourne by William Cooper to gain human and civil rights for Aboriginal people. It was an entirely Aboriginal organisation, which petitioned the King for direct Aboriginal representation in the commonwealth parliament.

Similar organisations formed in Western Australia: the Euralian Association in Port Hedland and

the Native Union in the south-west. And there were other Aboriginal political organisations scattered around the country, demanding citizenship rights and ‘uplift’. Bain Attwood and Andrew Markus summarise their achievements:

They criticised the protectionist policies and practices of government and rejected, at least in part, the racial assumptions upon which these were based; attacked discriminatory legislation and government control over Aborigines’ lives; and called upon the Commonwealth to take over control from the states and introduce a uniform policy—a new deal—which would allow and help Aborigines take their place in society alongside other Australians.

These organisations restricted full membership to indigenous Australians, but non-Aborigines could assist as associate members.³⁵

As white Australia’s sesquicentenary approached, the Australian Aborigines League and the Aborigines’ Progressive Association joined forces to declare a Day of Mourning and Protest on 26 January 1938, the celebration of 150 years of ‘theft and genocide’. The Aborigines League called to white Australia: ‘You took our land by force ... You have almost exterminated our people, but there are enough of us remaining to expose the humbug of your claim, to be civilised, progressive and humane.’³⁶ At the Day of Mourning Congress on 26 January 1938, Jack Patten, as President of the Aborigines’ Progressive Association, announced:

The conference is called to bring home to the white people of Australia the frightful conditions in which the native aborigines of this continent live.

We ask for full citizen rights, including old age pensions, maternity bonus, relief work when unemployed, and the right to a full education for our children.³⁷

The Aborigines’ Progressive Association formed a Committee for Aboriginal Citizenship Rights. It produced a booklet entitled *Aborigines Claim Citizen Rights!*³⁸ by Patten and William Ferguson, who were both shearers and members of the Australian Workers Union. The APA also started issuing a newspaper, *Abo Call. The Voice of the Aborigines*, the slogan of which was ‘Education, Opportunity and Full Citizen Rights’.

In 1949 Pastor Doug Nichols, who was active in the Australian Aborigines League, repeated the request for just one reserved seat in the House of Representatives, but this suggestion was dismissed on the grounds that it would be unconstitutional. In 1957 Nicholls was instrumental in forming the Victorian Aborigines Advancement League,

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along with white supporters such as Doris Blackburn and Gordon Bryant. In fact, the majority of this organisation was white, unlike the original Australian Aborigines League, which had only ever allowed one white member: a railway worker who had organised the free carriage of food and clothing to Aborigines in country towns and on reserves.

An important issue at this time was unequal pay. The cattle industry in the top end of Australia exploited cheap Aboriginal labour for over a century, paying nominal cash amounts or payment in kind of a pathetic size, in the form of rations, clothing and tobacco. The conditions under which most Aboriginal workers lived were appalling. Aboriginal workers often raised the

demand for equal wages and activists such as Patten and Ferguson persistently raised the issue within trade union circles. From 1946 to 1949 there was a strike of Aboriginal stockworkers in the Pilbara area of Western Australia, where most of the indigenous workers were receiving no cash wages at all. This affected 6,500 square miles of sheep farming country. Aboriginal strikers were seized by police at revolver point and put in chains.⁴⁰ The Pilbara strike was supported by 19 unions in Western Australia, seven federal unions and four Trades and Labour Councils. The Western Australian branch of the Seamen's Union placed a ban on the transport of wool from stations affected by the strike, winning almost immediate concessions from the pastoralists. A white Communist unionist, Don McLeod, was arrested during the Pilbara strike for 'inciting Aborigines to leave their place of lawful employment'; the Aboriginal strikers marched on the jail and McLeod was freed.⁴¹

Other sections of the labour movement were not so supportive of the demand for equal pay. The right-wing dominated Australian Workers' Union (AWU), which covers much rural work in the areas where most Aborigines live and was therefore the union relevant to most Aboriginal workers, was undoubtedly a racist organisation for most of this century.⁴² Though it did not exclude Aborigines from membership, for many decades it opposed Aboriginal workers' demands for equal pay, while citing unequal pay as an argument for legislation to protect white workers from the competition of Aboriginal. However, it was persuaded by Aboriginal activists within its own ranks and Communists within the wider union movement that the interests of white workers, as well as Aboriginal, were best served by equal pay. In 1965, it filed claims, through the ACTU, to remove discriminatory clauses in awards relating to employment of Aborigines. In 1968 Aborigines were finally granted equal pay for equal work by being included in the Cattle Station Industry Award of the Northern Territory, the Federal Pastoral Award and the Queensland Award.

In the meantime, the Aboriginal Advancement Leagues of Victoria, South Australia and Western Australia had come together in 1957 to form the Federal Council for the Advancement of Aborigines, renamed the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) in 1964. Various trade unions were involved in FCAATSI from 1957 and practically all the white FCAATSI members were supporters of the Labor Party or Communist Party. It aimed to push for reforms in certain areas of the Constitution dealing with Aboriginal affairs and to 'help the Aboriginal people of Australia become self-reliant, self-supporting members of the community'.⁴³ Unlike the inter-war organisations, FCAATSI was dominated by whites, though it always had Aboriginal leaders, such as Joe McGuinness and Kath Walker, and tried to include and promote Aboriginal perspectives.

Until 1967 the Constitution, detailing the powers of the commonwealth government as against the state governments, left Aborigines to the devices of the various state governments. Sections 51 and 127 stated respectively that the Commonwealth Parliament could make laws for any people in Australia other than the Aboriginal race and that Aboriginal people were not to be counted in calculating the population of the Commonwealth. It was FCAATSI that began to prod the federal government to conduct the referendum of 27 May 1967 to change the Constitution to give the federal government power to over-ride state governments and legislate on behalf of Aborigines, and to include them in the Census.⁴⁵ Nearly ninety two per cent of the population voted 'Yes', but the 'No' votes were highest in the areas where most Aborigines lived, shoring

up the many structural barriers to Aboriginal advancement.⁴⁶

While FCAATSI was lobbying for the referendum, indigenous leaders such as Charles Perkins, then at Sydney University, were becoming inspired by American developments. In 1965, with the help of white university students, Perkins organised 'freedom rides' throughout northwestern New South Wales, the 'Deep North' of the state, where racist attitudes and practices were harshest. Entering small country towns *en masse*, these racially mixed groups of Aborigines and white students ignored the racially based restrictions and customs of the town, the official and unofficial apartheid that excluded Aborigines from swimming pools, clubs and certain pubs, or offered segregated facilities. They used the ensuing publicity caused by the outraged locals' response to highlight the extent of discrimination and appalling living conditions of Aborigines and, in some cases, forced changes upon the local scenes. Charles Perkins maintained his interest in American developments, visiting Jesse Jackson in 1967. He began to articulate the rising indigenous discontent with white control of the civil rights movement and with the inherent limitations of the civil rights approach in general. As Vincent Lingiari commented on the referendum: 'our citizenship has not brought us the opportunity to live a decent life ... '~

Campaigning for indigenous rights, 1968-2001

The late 1960s saw a growth of Aboriginal publications; of Aboriginal political organisations and demands for a greater say in other organisations; and of links between these organisations and liberation movements elsewhere in the world, representing the interests of indigenous populations. FCAATSI noted in 1968 that 'there is a growth of "Aboriginality", of the desire to identify as Aborigines and to find one's identity in such identification'.⁴⁸ Bain Attwood and Andrew Markus suggest FCAATSI itself had contributed to this process by facilitating communication between Aborigines across Australia through its annual conferences and other networks. Aborigines came to have a much greater sense of themselves as a common national group with a shared historical experience of oppression: 'the attenuated sense of Aboriginality of Aborigines in settled Australia was renewed or revived through their contact with traditionally-oriented Aborigines in remote areas'

In November 1969 FCAATSI convened a Conference on Autonomy and Self-Government for Aborigines and Islanders, in Sydney. Developments such as these were heralded in the Aborigines Advancement League newspaper, *Smoke Signals*, as 'a new and radical turn in Aboriginal affairs'. Aboriginal organisations protested against the bicentenary of Captain Cook's landing in 1970, presaging the much larger mobilisation of 1988. *Smoke Signals* again commented on the new mood: 'Fear of white disapproval ... is rapidly disappearing.'⁵⁰

FCAATSI split in 1970, a fracture indicative of the development towards Aboriginal autonomy: only three of the thirty people who had founded FCAATSI in 1957 were Aboriginal; in the 1960s FCAATSI was run *for* Aborigines but not *by* them; at the Easter 1970 Conference, some white delegates were booed and hissed by Aboriginal delegates wearing red headbands as the Conference debated whether FCAATSI's Constitution should be altered so that only people of Aboriginal or Islander descent could comprise the Executive and vote at General Meetings. The vote was 48 to 48, largely but not entirely along racial lines, which was not the two-thirds majority required for a Constitutional amendment. Accordingly, the Aboriginal supporters of the

motion withdrew and formed a short-lived National Tribal Council based in Brisbane with executive and voting rights exclusive to Aboriginal and Islander members.⁵¹

The Aboriginal movement in the 1970s was debating the pros and cons of Black Power, popularised by the American Black Panthers from the late 1960s. The mere possibility of a burgeoning Australian Black Power movement helped to shake the complacency of white society, and radical Aboriginal activists jokingly exploited this fear. In December 1971 Dennis Walker, Gary Foley, Billy Craigie and Gary Williams introduced themselves to the nation as the 'field marshals' of the Australian Black Panther Party. They explained: 'We're going to train a select group in urban guerilla tactics and use of explosives. We'll be ready to move in a month, and then all hell will break loose.' Dennis Walker alleged his mother, Kath Walker, had 'gained nothing for all her work over 20 years ... sitting on Prime Ministerial committees.'⁵²

The black power mood disturbed many of the white supporters of Aboriginal causes. FCAATSI was slow to recognise that by 1970 indigenous rights had overtaken civil rights as the principal goal of the Aborigines and that the joint leadership, let alone domination, by whites in such a movement was no more appropriate than to have men lead the women's movement.⁵³ In 1978 FCAATSI changed its name to the National Aboriginal and Islander Liberation Movement (NAILM) and its new Constitution required that its leadership comprise Aborigines and Islanders only.

Broadly speaking, however, the 'black movement', as the Aboriginal movement then called itself, did not accept Black Power with all its ramifications of strict separatism and use of violence. Bobbi Sykes, in debating against Neville Bonner in 1972, stressed that black power was not about 'blood and guts' or black capitalism but was 'the power generated by people who seek to identify their own problems ... and who strive to take action in all possible forms to solve those problems' ~ Violence was generally rejected by most indigenous activists; and a compromise position reached on separatism allowed that while it was important for the black movement to work towards control of its own affairs, the help of concerned whites should not be spurned completely in the meantime. Bruce McGuinness argued:

If a non-Aborigine wants to devote hours of his leisure time to help and give technical advice to us then we must not turn our backs on them ... Let us, the Aborigine, assist the non-Aborigine to aid us...

A black power motion passed by the Victorian Aborigines Advancement League in September 1969, asking all non-Aborigines to resign, was rescinded early in 1970. The Aborigines supporting the revised position were adamant:

This does not mean that non-Aborigines will dominate Aboriginal Affairs. What in fact will happen is that Aborigines will gradually take over positions within the League, as they have done in the past twelve months.⁵⁵

White help, it was felt, could be received, but on indigenous terms, and accepted as long as it suited indigenous purposes.

Prime examples of this principle in operation have been the Aboriginal Legal Service and the Aboriginal Health Service, which are rightly cited as successful examples of indigenous control of indigenous affairs, Aboriginal community initiatives set up by Aborigines for Aborigines. The reliance on sympathetic white expertise has not diminished as rapidly as was hoped in the early years, especially in the health area, but these services are successful, compared with white-controlled services, precisely because of their acceptance by their client populations. These services rely, however, on state funding, which, although inadequate, keeps them beholden to government. The Aboriginal Legal Service (ALS) was established in 1971, located in Redfern, the inner Sydney suburb with a large Aboriginal population, but with field officers all over country New South Wales. The Service quickly spread throughout Australia; it was a good idea whose time was overdue. When it started, it relied on white lawyers, assisted by indigenous field officers and indigenous staff at Redfern. There are now Aboriginal lawyers working for the ALS in many areas.

Before the ALS was established, arrested Aborigines rarely had proper legal representation, a problem all the more serious because of the fact that Aborigines are seriously disadvantaged in the white legal system. At 30 June 1998, indigenous Australians were twelve times as likely as other Australians to be imprisoned.⁵⁶ The high imprisonment rates for Aborigines stem not only from their socio-economic plight but also from the way in which the law is administered: the disproportionate number of blacks arrested and charged; the disproportionate number of these found guilty; and the disproportionate number of these who receive prison sentences. In recent years the discrimination endured by indigenous Australians in the criminal justice system has been compounded by Northern Territory and Western Australian experiments with mandatory sentencing. Given the disproportionate numbers of indigenous Australians arrested, charged and found guilty, mandatory sentencing laws operate especially harshly and unfairly against Aboriginal people. The ALS has been at the forefront of campaigns to overturn such laws, and public attention was focused on the issue when an indigenous teenage boy from Arnhem Land committed suicide in prison early in 2000, having been sent there under mandatory sentencing provisions, for having stolen some texts.

Soon after the establishment of the ALS came the Aboriginal Health Service, which was the first community-controlled health service in the world. The statistics on Aboriginal health are alarming, on all significant indicators such as life expectancy, infant mortality and maternal mortality. In the 1991-1996 period, life expectancy at birth for indigenous males was 56.9 years compared with 75.2 years for all Australian males; and for indigenous females was 61.7 years compared with 81.1 years for all Australian females. In 1996 the median age of death was 50 amongst indigenous Australians and 77 amongst the total population.⁵⁷

The Health Service started with one in Sydney's Redfern and one in Melbourne's Fitzroy; today there are about sixty Aboriginal community-controlled health services throughout Australia. It is a system that has been conceived, designed, established and controlled by the Aboriginal people themselves, from the communities in which these health services operate; they are run by Aboriginal people according to their values, employing sympathetic white doctors. They provide effective community health care because the people who use it feel it is theirs.⁵⁸ The Australian Council of Social Services has concluded that the Aboriginal legal and medical services are far more effective than services run by whites for blacks, precisely because they are run by the

Aboriginal community and are not separated from the Aboriginal community, are seen in fact as belonging to that community.⁵⁹

These projects were not just practically important for indigenous Australians but also psychologically. Gary Foley explains how:

Things like this gave confidence to Aboriginal people. After generations under the thumb of the white man's law... it was psychologically extremely important for the Aboriginal people **to** solve their own problems. They discovered they were capable of doing it in a far more efficient, logical and intelligent way than anybody who'd come along with a fistful of sociology degrees. The thing we really proved was that the only people who are really expert on Aboriginal communities are Aboriginal people.⁶⁰

Koorier is adamant that 'we have proven that we are the best ones to do our own work looking after our people. And we have been forced into the position of having to make do while we are under resourced.'⁶¹ By the same token, these services were important politically, by challenging white-bureaucratic control of Aboriginal people. Foley argues that many white Australians find it very difficult to accept that Aboriginal people are capable of controlling their own affairs and doing it better than the white 'experts'. This is why Aboriginal initiatives are so often perceived as threats by the bureaucrats.⁶²

In general, the Aboriginal movement has been successful at maintaining its autonomy while utilising the services of sympathetic whites. The dangers for the Aboriginal movement have not generally come from those who help the movement on the ground, but from those who seek to control blacks and the Aboriginal movement, from their positions of power in the white structures of government and bureaucracy. By 1976 all 70 Aboriginal advancement organisations were either in Aboriginal hands or defunct; the brief postwar period of black-white co-operation was clearly over. By 1992 there were over 1200 Aboriginal organisations, almost all managed by Aborigines or Islanders.

There has been debate within the Aboriginal movement about the idea of a treaty. This was initially proposed in 1979 by a national Aboriginal conference, which called for a treaty to be negotiated between the Aboriginal people and the Commonwealth, which would include a recognition of prior ownership of the land by the Aboriginal people, a recognition that did not then exist in Australian law.⁶³ However, the first meeting of the Federation of Aboriginal Land Councils, in Alice Springs in 1981, rejected the idea of a treaty because of 'insufficient consultation with Aborigines, doubts surrounding its significance and consequences, and the fact that it would "legalise occupation and use of sovereign Aboriginal lands by the Australian settler State"'.⁶⁴

Instead, there were moves within the Aboriginal movement to negotiate a sovereign treaty recognisable by international rather than Australian law, under the Vienna Convention on the Law of Treaties. In 1988, Galarrwuy Yunupingu, Chairman of the Northern Land Council, declared: 'A treaty will wipe out injustice and redress the wrongs of today, which can be traced to the wrongs of the past. It will put us on the right track for the future.'⁶⁵ Those in favour of such a treaty formed themselves into the Treaty 88 Campaign, based in Canberra, and issued a

declaration that announced:

We, the Aboriginal People, restate that we are the Sovereign Owners of Australia. There have been no Treaties with us and we have never ceded our Sovereignty.., in 1770, Captain Cook declared the legal lie that our land was *terra nullius*, a wasteland and unoccupied. Our humanity was denied and the historical fiction that Australia was peacefully settled ... perpetuated.⁶⁶

Recently, there have been renewed calls from indigenous activists for a treaty.⁶⁷ This notion is steadfastly rejected by the Howard Government and by John Howard in particular, although a recent AC Nielsen poll showed 53 per cent of Australians ready to embrace the concept of a treaty.⁶⁸ Resistance to the negotiation of a treaty is based on reluctance to acknowledge there has been a war that needs concluding.

There was significant indigenous mobilisation against the bicentenary celebrations in 1988. For *Land Rights News* the celebrations presented 'the obscene spectacle of the brutality and arrogance of British colonialism' •69 The Aboriginal movement instead celebrated 1987 as the bicentenary of its last year of freedom and registered its anger the following year. On 26 January 1988 about 50000 protesting Aborigines from all over the country (nearly a fifth of their population) descended on Sydney in 'freedom buses' and by other means. Les Collins, co-ordinator of the Cairns Aboriginal Health Service, explained the indigenous perspective by pointing out that Australians would be horrified if Germany decided to commemorate its crime against the Jews, yet Aboriginal people were witnessing the celebration, with fireworks and fanfares, of the taking of their traditional lands.⁷⁰

The growing independence of the Aboriginal movement was clearly symbolised in the growth of land councils since the 1970s, a development that also signifies the importance to Aboriginal organisation of region and locality. Lately, Aborigines have indicated the desire to be known by their regional names, such as Murri in Queensland, Koori in New South Wales, Victoria and Tasmania, Nungga or Ningi in South Australia, Nyunga in Western Australia, Anangu in central Australia and Yolngu in the Northern Territory. In doing so, they are asserting the distinctiveness of the many Aboriginal groups here before 1788 and reminding whites that the word 'Aboriginal' and its meanings are not theirs. A desire for independence is expressed also in the Aboriginal outstation movement, the reoccupation of traditional lands, aiming at the achievement of 'cultural and economic independence' 71 *Land Rights News* claims the outstations have restored pride to Aboriginal people and 'the chance of self-determination in a modern sense' as many of the outstation communities generate income through whatever economic activity is appropriate to them.⁷²

Determination to defend culture and identity can be seen, likewise, in the campaign for the return of Aboriginal relics and remains, pilfered over the years and placed in museums and other institutions in Australia and overseas. Bob Weatherall, a Murri elder, says: 'Aboriginal culture will never rest until all the remains come home and are recognised by their tribal elders.'⁷³ Indigenous artists and activists are also campaigning: to protect indigenous artists from unscrupulous dealers who pay artists only a tiny proportion of the money they themselves make on sales; to prevent breaches of copyright in relation to indigenous art; and the problem of white artists passing themselves off as indigenous artists. They aim to prevent what *Land Rights*

News has referred to as ‘the wholesale rip off of Aboriginal designs by entrepreneurs around the country seeking to cash in on the popularity of Aboriginal art’~ Tourism, especially ecotourism in inhabited national parkland such as Uluru (formerly Ayers Rock), Nitmiluk (formerly Katherine Gorge) and Kakadu, is another area fraught with both opportunities and dangers for indigenous Australians. In many places, tourism has been foisted on Aboriginal people from the outside and Aborigines have been excluded from any financial benefits. Aboriginal involvement in the tourist industry is slowly developing but, without control over tourist developments, Aborigines are easily overridden by larger, white players. While conscious of the strategic benefits of tourism in some cases, especially in counteracting the territorial aggrandizement of mining companies, the National Coalition of Aboriginal Organisations advises caution: ‘If environmentalists and the indigenous people cannot control the activities of tourism in their area, then they should reject tourism altogether.’⁷⁵ Yami Lester of the Pitj antjara Council, which has been involved in a successful tourist venture involving the Australian Conservation Foundation, a white tour company and the Pitjantjatjara traditional owners, stresses that the key word is *control*: tourists have to fit in with the Aboriginal way of doing things.⁷⁶

Moreover, any protection ecotourism might provide indigenous Australians is limited by the interests of more powerful players, notably mining companies. In 1994 the Australian Conservation Foundation report on *Mining and Ecologically Sustainable Development* recommended protection for Aboriginal sacred sites.⁷⁷ By 2000 Kakadu National Park, since 1978 leased back by its Aboriginal owners to the Commonwealth through the National Parks and Wildlife Service, was receiving 300,000 tourists per year. Yet this was insufficient to prevent serious proposals for a uranium mine in the Kakadu National Park in the late 1990s, which would have disturbed sacred sites.⁷⁸ The Gundjehmi Aboriginal Corporation, representing the interests of the Mirrar people as the traditional owners of the area, opposed the mine operating on their country, fearing both the environmental consequences for country and the social consequences for the Mirrar people. In a joint publication with the Australian Conservation Foundation, *Kakadu Worth Fighting For*, the Gundjehmi Aboriginal Corporation explained: ‘Kakadu, for many, represents the idea of a fabulous holiday but for Mirrar Kakadu is home and because it is their home Mirrar are vehemently opposed to another mine on their land, in their home.’⁷⁹ This campaign, which mobilised around the issues of both indigenous land rights and environmentalism, is discussed in Chapter Three. It is an example of the fact that environmental and indigenous movements have a closer relationship than most other social movements.⁸⁰

There are also problems of a conceptual nature in the relationship between ecotourism and the protection of indigenous culture. Marcia Langton argues that the popular usage of the term ‘wilderness’ in Australia has had the effect of denying the imprint of millennia of Aboriginal impacts on, and relationships with, species and ecologies in Australian environmental history. At the same time the uninformed public have unrealistic expectations of a pristine environment without human impacts and of an indigenous population living in pre-colonial circumstances.⁸¹ The entry display board at the Nitmiluk Visitors Centre makes an important statement from the traditional owners:

Nitmiluk is not a wilderness.

It is not pristine or untamed: it is a human artefact. **it** is a land constructed by us over tens of thousands of years—through our ceremonies and ties of kinship, through fire and through hunting over countless generations of our people the Jawoyn ... Nitmiluk is now fenced by lines on a map but remains an indivisible part of our traditional lands, linked through our ceremony and our law.

Once again we are able to care for our country—not as *terra nullius*, or an empty land; not as an untamed wilderness—but as a part of a living heritage that forms a basis for economic and social independence for our people.⁸²

A defining characteristic of the Aboriginal movement is its emphasis on the need to achieve as far as possible independence from white initiatives and certainly from white control. And yet the aims of the movement cannot be achieved without state intervention and funding; and it is largely in the making of demands upon the state that Aboriginal discontent has taken the form of social movement action. Thus there are continual tensions within the movement caused by the desire for autonomy and the ultimate reality of dependence on white structures of government and bureaucracy, in whose power it lies to accede to the demands of the movement. In 1999 Jackie Huggins emphasised this problem of political dependence: ‘While the power rests with white institutions, politicians, men and women ... we can never embark on any meaningful dialogue, let alone try to find solutions.’⁸³

The land rights movement

Aboriginal societies developed a precise, although complex, concept of landholding, in which individual men and women hold particular relationships to land, inherited from parents and arising from their own conception and birth sites. These relationships entail obligations and responsibilities to protect the land, its species and people, from damage and unauthorised use; and to husband the land, use it, harvest it and do the things it needs, such as burning, to maintain its productivity. As Heather Goodall explains, the Aboriginal concept of landholding is very different from the European concept of land as individually owned private property, a commodity to be bought, sold, and used to generate capital.⁸⁴

The demand for citizenship rights had emphasised the right of indigenous Australians to *equality* of treatment. In raising the demand for land rights from the 1960s onwards, indigenous Australians were also emphasising their *difference* from non-indigenous Australians, their distinctive position as the original owners and custodians of the continent. Yet the desire for land rights was also motivated by the desire to secure economic independence from white structures in order that indigenous Australians might have a better chance of attaining equality.

Indigenous lawyer Pat O’Shane defined land rights in this way:

that the people having traditional links with a particular area be given inalienable title to that land and complete, unfettered control over how that land is used. Where people have lived on reserves for the past century, which is the situation for most Aborigines, then the same rights be extended. In places where **it** is impossible for the people to regain their land, then some form of compensation be made, whether by way of some other land or by way of monetary compensation.⁸⁵

The significance of land rights

In 1887 William Cooper at Cumeragunja had pleaded: 'Return to us this small portion of a vast territory, which is ours by Divine Right.' In 1972 Millie Boyd at Woodenbong stated: 'We are hungry for our own ground. We should have land, this is our land. We are hungry for our land.'⁸⁶ The symbol of the land rights struggle, the black, gold and red flag, representing the people, the sun and the earth, became the symbol of the Aboriginal movement during the 1970s. For Tribal Elder, Ted Thomas, speaking in 1979: 'This flag means a lot to the aboriginal people It means land rights.'⁸⁷

The demand for land rights expresses an urgent desire to regain some of what was stolen and articulates the extent of Aboriginal attachment to land, a link that is not broken by the fact that an indigenous person may have lived away from it for many years. A Mornington Islander named Lanley explains it like this:

At the heart of everything is the land. It is the way we feel and think about the land that makes us Aboriginal. It's the only way to keep our culture. We belong to the land in the true sense that it is part of us that we need to survive... ..that is why land rights are so important to us. We need the land to be Aboriginal in our minds.⁸⁸

Given the repeated dispossessions endured by Aboriginal communities in relation to their land, Aborigines need to feel secure in their occupation of these lands: that is why they need land *rights*. A statement from the Yuin tribe of the New South Wales south coast area explains this problem of insecurity:

In the past, before the coming of the white people, we were free to use all the land and to travel over it as we wished... It was part of us and we were part of it.

Today we have had almost all of it taken away from us. We are forced to live on just a few acres that remain to us, and even this we cannot call our own as long as we do not have the title deeds. We must always live in fear and insecurity, worrying if even the little we have will be taken away from us.. ~89

The demand for land rights is central in the politics of the Aboriginal movement. Not only is there unanimity within the movement about the importance of this demand but the demand is itself the basis for unity; land rights is a *united* and a *uniting* demand of the movement. The Aboriginal and Islander publication, *Identity*, declared in 1978:

'Today when we speak of Land Rights we do so with one voice... We the Aboriginals love our land, our country and the water and sky around us.'⁹⁰ Charles Perkins maintained in 1989: 'We all understand clearly the importance of the struggle for land rights: it symbolises our eventual victory. Let this struggle continue constructively and remain the prominent part of our platform.'⁹¹

For Gary Foley:

land rights means economic independence..., if we are to have true control over own lives..., we

have to be on equal terms with the white man's society. The only way we can achieve that is through economic independence.., we will then be able to decide for ourselves the direction our communities should go in, what sort of society we want, without any interference.

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He points out that the granting of land rights would be, in white terms, cost-effective:

'We won't have to go begging to anyone, and we will cease to be a burden on the Australian taxpayer, which is what everyone keeps telling us we are.'⁹² The indications are that land rights would be a better guarantor of Aboriginal independence than any other policy: many Aboriginal groups retain much of their precolonial social structure, so if they could gain *legal* and *productive* control of their land 'it would be possible for them to develop as independent communities articulated with capitalism only at the level of the [product] market—i.e. through exchange relations'.⁹³ The independent Aboriginal concerns functioning in New South Wales since the land rights legislation in that state have had a much better survival rate than small businesses generally.⁹⁴

As the Aboriginal movement for land rights became stronger and better organised from the late 1960s onwards, mining and pastoral interests in particular responded with all the money and power at their disposal. The practice of mining companies of sending well-placed journalists on junkets to visit mining sights helps ensure that the media takes its cues from the mining industry; urban whites are encouraged to identify with the interests of white mining companies.⁹⁵ It is not difficult for the media to play upon the deeply entrenched belief in development, especially mining development, as progress. Aboriginal 'cultural and spiritual rationales' for occupation of land are in stark contrast with the non-Aboriginal perception of it as a resource to be developed and to be used in support of development.⁹⁶

Pat O'Shane argues that in a complex sense the whole of white society is opposed to her people's demand for land rights, because it runs contrary to the very foundations on which white society is based. But in an immediate sense, it is the mining companies who determine the extent and scope of white resistance to Aboriginal land claims, because

the struggle for land rights threatens the continued exploitation of our people and our natural resources by multinational mining corporations. Such corporations control simply massive financial interests and, consequently, they exercise enormous political control, making or breaking national governments.⁹⁷

The Billiton Metals Manager in Australia explained mining industry opposition:

'When we give land rights to the Aboriginal people it means that they will be in the same position as other white Australians. I don't like it. It is a very big problem and it is dangerous to the mining industry.'⁹⁸ Pastoral interests are also strongly ranged with mining companies against Aboriginal land rights and, in the more densely settled states such as Victoria and New South Wales, agricultural and forestry interests. The National Farmers Federation has been campaigning since at least 1984 to prevent any federal legislation that could conceivably threaten white landed interests.⁹⁹ Land rights is seen by the Aboriginal movement as the means to achieve real, practical independence from white control, while at the same time regaining some of the land that means so much to Aboriginal people. To have land would be to have

power again, not only economically and socially but culturally and spiritually as well. Asserting rights to the land also focuses attention on the moral question of white theft and genocide, problematising the past and present behaviour of settler Australians towards the indigenous inhabitants.

The land rights struggle, 1788-1971

The long history of resistance to dispossession is important in the culture of the Aboriginal movement today. Though white Australians are more likely to have heard of Sitting Bull and Geronimo, their Aboriginal equivalents such as Nimaluk and Musquito are revered in indigenous communities. Aboriginal armed resistance went on until the 1860s at least. When guerilla warfare was no longer possible, late in the nineteenth century, a land rights campaign developed in south-eastern Australia. Heather Goodall has revealed how old this land rights struggle is and how it developed.

In the 1870s and 1880s, Aborigines began to reoccupy their land by squatting on it, building shelters, planting crops. They then demanded that the government give them secure tenure, using the populist ideas then circulating among whites about 'free selection' to 'unlock the land'. But Aborigines were not asking, as whites were, for *any* piece of productive land; they wanted the land they were reoccupying within their traditional country. Instead of conceding land rights, the governments turned the areas concerned into reserves, bending the situation created by Aboriginal activism to the whites' advantage: the reserves would keep Aborigines separated from white society while according them no rights over the land reserved. Of the 29 reserves established in New South Wales between 1870 and 1884, 25 were the result of Aboriginal initiatives and the others were government imitations of the Aboriginal idea. This was the origin of the reserve system, by which the government was seen to be doing something to 'smooth the dying pillow' of the race assumed to be on the way out. When this assumption was shown to be false, policies towards Aborigines became more aggressive and Aboriginal communities were dispersed. There was bitter resistance, as each community defended its right to farm and live on the reserve land. There was often hand-to-hand fighting. Aboriginal farmers were literally dragged off the land by police, often in mid-crop, always under protest.⁹⁰

The Aboriginal political organisations of the inter-war and immediate post-war period included land rights, as well as civil rights, in their concerns. But the modern land rights campaign is usually seen as beginning with the actions of the Yirrkala and Gurindji peoples in the 1960s: one fought against mining interests, the other against pastoral interests.

The Gurindji people lived and worked at Wave Hill cattle station in the Northern Territory, run by the British pastoral company, Vestey's. Lord Vestey, the owner, still runs his cattle over 12,000 square kilometres of the Northern Territory today.⁹¹ 'Hunger was an ever present fact of life for Vestey's Aboriginal workers', according to *Land Rights News*.¹⁰² 'Long time work no wages we... Little bit flour, sugar and tea', they sang in 'The Gurindji Blues'. In August 1966, the Aborigines employed at Wave Hill went on strike; and in March 1967, they left Wave Hill to set up their own township settlement at Wattie Creek. Under their leader, Vincent Lingiari, they requested the return of some of their traditional land, 500 of the 6,000 square miles of the Wave Hill pastoral lease, and made plans to establish their own cattle station. In 'The Gurindji Blues',

they sang about buying their country back from Vestey. 'What do you reckon proper fee? Might be flour, sugar and tea'.

The Gurindji action involved both a withdrawal of labour and a request for land; it was a strike and a land rights struggle all at once. It lasted about nine years, serving as an inspiration for Aborigines all over Australia. It was supported directly by the North Australian Workers' Union and other trade unions supported the struggle in various ways. For example, the Waterside Workers' Federation donated \$10,000 to the Gurindji, with which they fenced in paddocks.¹⁰³ Well-known Communist Party writer, Frank Hardy, assisted the Gurindji and told their story in *The Unlucky Australians*. Ultimately, in 1975, the federal government granted the Gurindji a mere leasehold interest in just 25 of the 500 square miles claimed outright by them, preferring to keep the rest of the enormous lease in the name of the absentee English aristocrat. The Gurindji now manage their land for horsebreaking and contract pastoral work.

At the same time as the Gurindji were waging their struggle, the Yirrkala people of the Gove Peninsula were fighting their own battle. The development of the modern land rights movement has much to do with the response of Aboriginal communities to the depredations of mining companies in the post-war period; the excision of land from reserve areas to suit the purposes of these companies led Aborigines to question their apparent lack of legal rights over their traditional lands. In 1963 the Yirrkala presented a petition, on a piece of bark in Gubapuyngu, to the federal government against the intrusions of the Nabalco Company on their Gove reserve. Despite public support for the Yirrkala, their protests were largely ignored: the 140 square miles required by Nabalco was excised from the reserve and bauxite-mining operations began. Galarrwuy Yunupingi reported: 'The company came and when we said "No" they did not listen to us.'¹⁰⁴

In 1968, the Yirrkala brought their land rights case to court. Specifically, the Yirrkala claim was against the Commonwealth government and Nabalco, with respect to the mining leases the Commonwealth had granted to Nabalco over areas of tribal land. Judgement in this Gove Land Rights Case was delivered in 1971: it judicially recognised and legitimised the theft of the entire continent. In a much criticised decision, Mr Justice Blackburn concluded that the people had failed to establish that the common law recognised the doctrine of communal native title. After the judgement, the Yirrkala Council presented another petition, personally, to Prime Minister McMahon, which stated: 'The law must be changed. The place does not belong to White man. They only want it for the money they can make. They will destroy plants, animal life, and the culture of the people.'¹⁰⁵

Following this judgement, Aboriginal demands for land rights were for a time fought out in the political rather than the legal arena, in the streets rather than in the courts. Just as white radicals turned to direct action forms of protest at this time, so too did Aboriginal movement activists. Having come up against the barrier of judge-made law, the attentions of the Aboriginal movement had necessarily to centre on securing changes to statute law. By the 1970s Aboriginal organisations were springing up spontaneously, campaigning for legislation to secure land rights. Most significant was the growth of regional land councils.

Federal governments and land rights, 1972-1979

As the Aboriginal movement focused its attentions on legislation, the intentions of the mainstream political parties on land rights became an issue. The Coalition position was put by prime Minister McMahon in his Australia Day speech in 1972, which declared that the development of mineral resources on Aboriginal land could 'contribute to the economic advancement of the aborigines resident on them' and that the government would grant exploration licenses and mining tenements on reserves.⁶

Aboriginal activists responded by erecting a tent outside Parliament House in Canberra (flow Old Parliament House), declared the tent an Aboriginal Embassy and announced a five-point plan for land rights.⁷ This plan demanded

1. Full State rights to the Northern Territory under Aboriginal ownership and control with all titles to minerals, etc.
2. Ownership of all other reserves and settlements throughout Australia with all titles to minerals and mining rights.
3. The preservation of all sacred lands not included in Points 1. and 2.
4. Ownership of certain areas of certain cities with all titles to minerals and mining rights.
5. As compensation, an initial payment of six billion dollars for all other land throughout Australia plus a percentage of the gross national income per annum. **108**

Labor in Opposition showed some responsiveness to the demands of the movement. During 1972, Labor Party Leader Gough Whitlam visited the Aboriginal Embassy and promised that a Labor government would give Aborigines legal, freehold title to land where they would be identified as a community, tribe or clan. Labor became identified in the public mind with the land rights cause and the Coalition parties with determined opposition to land rights. The Embassy did not disappear, however, after the December ~972 election that ended 23 years of coalition rule. In fact it remained there until it relocated to Sydney in July 2000.

Immediately after the Labor government was elected, it froze all applications for mining and exploration leases in Northern Territory, South Australian and Western Australian Aboriginal reserves, and appointed Mr Justice Woodward to enquire into 'the appropriate means to recognise and establish the traditional rights and interests of the aborigines in and in relation to land, and to satisfy in other ways the reasonable aspirations of the aborigines to rights in or in relation to land'.⁹ Woodward's recommendations, though subjecting Aboriginal land to all laws applying to freehold land as well as the power of compulsory acquisition in the 'public interest', nevertheless represented a significant advance on previous policies, and were largely implemented in the Land Rights Bill (1975), which could not be passed before the government was dismissed from office. Many powerful concerns had an interest in the dismissal of Whitlam Labor: the mining industry was one of these.

On 26 January 1977, the Fraser coalition government proclaimed the Northern Territory (I4and

Rights) Act 1976, a substantially amended version of the Bill prepared by the Whitlam government. The alterations all protected the interests of mining ventures on traditional Aboriginal land. Aborigines were given freehold title to Northern Territory reserves but they no longer controlled the roads running through their land and were obliged to permit any government official onto their land. Moreover, Aborigines could lay claim only to vacant Crown land and lands already held by or On behalf of Aborigines, and only if they could establish traditional ownership, offering nothing whatever to communities whose tribal land did not correspond with such land. Even for those tribes contending for vacant Crown land, the Act contained the difficult clause allowing mining companies to oppose their claims: that the claim should be disallowed if 'detriment to persons or communities might result'. Furthermore, Aboriginal landholders' veto power over mining and other such operations was greatly curtailed, following an amendment suggested to the Fraser government by the Australian Mining Industry Council, and veto power dispensed with altogether in connection with mining operations pursuant to the *Atomic Energy Act 1953.110*

Contrary to the impressions conveyed in the press, the Act did not give the Aboriginal people mineral rights over any land; nor did the original Bill. The only right given was to negotiate the payment of royalties from mining operations and even that right could be denied them because, if the people did not come to the party in such negotiations, an Arbitrator could be appointed to take over that role. The Act states in Section 45 (1):

Where the Minister for Aboriginal Affairs is satisfied that a Land Council has refused, or is unwilling, to give its consent to the granting of a mining interest.. .the Minister may, after consultation with the Land Council. ..appoint an Arbitrator.. .to determine the terms and conditions of the agreement.”¹

It is because, ultimately, they have no choice that land councils end up negotiating with companies and signing agreements concerning the conditions under which mining goes ahead, after objecting to the mining in the first place and finding their objections ignored. As Marcia Langton explains: 'If they don't participate, the Government will sign on their behalf, and they will get the proverbial bugger-all.'¹¹² The 1976 Aboriginal Land Rights Act is as effective in securing the rights of mining companies over traditional land as it is in securing Aboriginal rights over the land.¹¹³ The first land claim under this legislation was mounted in 1977-78. The people of Boorooloola found that their traditional sacred ties to their tribal land counted for little; Mount Isa Mines had already gone ahead with road and rail construction in the area, and the claim was opposed by the federal government. Very little of the area in dispute was granted to the traditional owners: the tracts of land that Mt Isa Mines did not need, and in such a way as to give Mt Isa Mines the likelihood of access to the area. As one of the traditional owners, Leo Finaly, commented of the decision: 'We only got a little bit, rubbish part of it... Good part of it, it's all gone.'¹⁴ Despite the bias in the legislation towards mining interests, the Australian Mining Industry Council (AMIC) launched an all-out attack in 1979 on the 'discriminatory' and 'divisive' federal land rights legislation, objecting to the idea that Aboriginal landowners should be able to negotiate mining rights and royalties. In 1981, soon after the federal government had begun talking about the importance of Aboriginal self-determination, the boundaries of the Kakadu National Park were altered in favour of the uranium mining company, Denison Ltd. The traditional owners enquired:

How can it be that the minister can give our land away to a mining company without asking what we think? This is not self-determination. This is... white fellas making their own decisions about what is good for Aborigines.¹¹⁵

The AIVHC pontificated about its 'special responsibility to make its resources available to the world community on equitable terms'.¹¹⁶

By this stage, state governments in New South Wales and South Australia had enacted land rights legislation; by contrast, the Queensland and Western Australian governments had demonstrated concerted resistance to land rights demands.¹¹⁷ To introduce uniform federal lands rights legislation, in 1984 the Hawke government indicated intent to apply the Northern Territory legislation Australia-wide. However, the mining industry stepped up its offensive. Hugh Morgan of Western Mining

Corporation claimed the mining industry was keeping faith with 2000 years of Christian tradition and doctrine and that land rights for Aborigines would represent a step back 'to the world of superstition, fears and darkness' 118 Western Mining Corporation's parent company CRA owns Comalco, which twenty years previously had imprisoned Aborigines and bulldozed their homes to make way for the Weipa bauxite mine. AMIC propaganda depicted black hands locking out other Australians and maps showing huge areas of land alienated, and recited perverse nonsense about compensation claims. Public opinion was moulded by this onslaught, which was then used as a stick to beat the proposals. The Hawke government capitulated; the AMJC won.¹¹⁹ In October 1984, the government publicly reneged on its promise of uniform land rights, with freehold inalienable title. Hawke effectively cancelled ALP policy on land claims: either they were not granted or they were made conditional on agreeing to mining taking place on the land.

In 1987, amendments to the Aboriginal Land Rights (Northern Territory) Act of 1976 weakened this original legislation. Stock routes and stock reserves were excluded from consideration as claimable land so Aboriginal communities whose traditional lands lay within those areas would be dependent upon pastoralists' willingness to allow them excisions; the limited right of veto on mining was replaced with a limited veto on exploration and, should the community consent to exploration, they forfeited the right to veto future mining; payments from mining companies to Aboriginal communities were limited to compensation for the degradation of the land surface and the disturbance to the local community; and 1997 became a deadline for lodging land claims. The Hawke government's record on Aboriginal land rights was determined by strong sensitivity towards mining and pastoral interests.¹²⁰

The battle for native title rights

With land rights legislation proving inadequate and piecemeal, indigenous activists returned again to court challenges in the 1980s. In 1982 a writ was issued claiming land owned by Eddie Mabo and others on the Murray Islands, the easternmost of the islands off the Queensland coast in the Torres Strait between Australia and Papua New Guinea. Mabo and about 400 other Murray Islanders made this claim on the basis that they were members of the Miriam people who had

hived continuously on the islands since ‘time immemorial’. The Queensland government responded by passing legislation declaring any traditional rights in Torres Strait were extinguished without compensation by Queensland’s assumption of sovereignty in 1879. In 1988 the High Court decided, narrowly, that the Queensland legislation was invalid; but the seven judges had then to decide precisely what legal rights the litigants did possess over the land. In a legal environment in which Justice Blackburn’s judgement had become increasingly unfashionable, where the international current of judicial interpretation has moved *strongly against ‘terra nullius’ and supported the robustness of native title, it was eagerly anticipated that the decision could be of great significance to the land rights struggle.¹²¹ It was.

The Mabo Judgement and the Native Title Act (1993)

The argument of the Murray Islanders in the Mabo case was that the traditional laws of land ownership that existed before Europeans arrived were still valid. So the High Court had to consider whether the extension over Australia of British sovereignty and English law automatically terminated the pre-existing laws, and rights under those laws, of the indigenous population. The Murray Islanders’ case was strengthened by the fact that the Miriam people conformed more to European notions of hand usage, living in permanent villages and growing crops in clearly marked family-owned plots of hand; further, the Queensland authorities had given tacit recognition to local hand tenure after 1879 by buying land from traditional owners to erect government buildings. Mabo died before he could hear the court’s decision on 3 June 1992 that the traditional land ownership laws of the Murray Islanders were still valid—that preexisting land rights, native title, survived the extension of British sovereignty over Australia. This Judgment therefore also reversed the long standing legal fiction that Australia was uninhabited when the British arrived in 1788—what was known as the concept of ‘terra nullius’, which is Latin for ‘uninhabited land’ 122

The Mabo Judgement was making up for past neglect in legal terms. However, in acknowledging native title as an interest which Australian common law is able to recognise and protect, the Court did so subject to two significant qualifications. Firstly, the 4~boriginah group needed still to maintain their traditional connection to their land in order to be able to establish a case of native title. So native title would lapse if the ~traditional owners left the hand or no longer maintained their traditional links through law and custom. Secondly, native title was liable to extinguishment by governments through legislation or regulation. This meant that governments could extinguish Native title by granting interests over the land to others or by setting the hand aside for public purposes. This is clearly the case for most of the country, so in most areas native title has already been extinguished and the Mabo Judgement confirmed this as an irreversible fact and that it had occurred without consent or compensation.²³

To indigenous Australians the Judgement appeared to promise some justice, yet in reality the benefits for indigenous Australians were very limited. The High Court did not rule there should be compensation for the extinguishment of native title. Moreover, native title provides less security and fewer rights than a statutory title, which grants inalienable freehold. Indigenous lawyer Noel Pearson considered from the outset that very few Aboriginal people would be able to benefit directly from the decision, though it laid the basis for a negotiated reconciliation of outstanding issues between non-Aboriginal and indigenous Australians.²⁴ Aborigines who have been forced off their land against their will or for whom ‘the tide of history has washed away

any real acknowledgement of traditional law', in the words of the Judgement, will not be able to establish native title. The tribunal will throw out most claims and even make claimants' pay costs if the claim is deemed especially weak. Because the Judgement makes it clear that native title, once extinguished, cannot be revived, only traditional owners who have been able to continue to follow their traditions and customs and can prove a continuing association with the land will have any chance of a successful claim. These are strict requirements, which most Aborigines cannot now meet, precisely because of the extent to which they have been dispossessed.¹²⁵ However, in a broader sense the Judgement was helpful to the indigenous cause in that the Court at last acknowledged the original injustice of dispossession. Thus the central challenge posed by Mabo was to put right the disadvantages confronting indigenous Australians in work, health, resources and access to economic and political power: disadvantages which have all stemmed from dispossession. How far are those who have benefited from Aboriginal dispossession prepared to go in the name of restitution and compensation?²⁶ The immediate response from the richest sections of white Australian society was not promising.

Despite the fact that the Judgement was no real threat, the country was thrown into a media-inspired turmoil. Former chief justice Gibbs remarked: 'Many decisions of the High Court have resulted in controversy, but few, if any, have given rise to such a diversity of responses, ranging from euphoria to deep anxiety, as *Mabo v Queensland*.'²⁷ To mining companies, pastoralists and others, the Mabo ruling seemed a threat to long-established status and income; people were panicked into thinking that the possession of their quarter acre suburban blocks was in peril, a needless fear deliberately encouraged by powerful interests.¹²⁸ In June 1995 Mabo's grave in Townville was desecrated and daubed with red paint and swastikas.²⁹ Mining industry leader Hugh Morgan criticised the Judgement, saying that the court had fallen prey to populist notions of collective white guilt. He said: 'Mabo is a challenge to the legitimacy of Australia, including the legitimacy of the High Court itself.' He argued the ruling should not be recognised. Other critics attacked the judges for ignoring the practical effects of their decision on investment in Australia. Victorian Premier Kennett argued that the High Court decision discriminated against non-Aborigines and that Australians 'cannot continue to be guilty about the past'. Conservative historian Geoffrey Blainey alleged that Aboriginal tribes would end up owning hands as big as some countries as a result of the Mabo decision. When he made this statement he was speaking as a guest of federal Liberal MP, Ian McLachlan, whose family owns a substantial slice of South Australia.³⁰

The federal Labor Government defended the Judgement. In December 1992 Keating delivered what became known as his 'Redfern Park address', in which he stated:

Mabo is an historic decision—we can make it an historic *turning point*, the basis of a new relationship between indigenous and non-Aboriginal Australians. The message should be that there is nothing to fear or to lose in the recognition of historical truth, or the extension of social justice, or the deepening of Australian social democracy to include indigenous Australians. There is everything to gain.

Introducing legislation in parliament in 1993 to clear up uncertainties created by the Judgement, Keating described the Mabo Decision as ending the 'pernicious legal deceit of terra nullius for all of Australia—and for all time' and presented the legislation as aiming to provide 'ungrudging

and unambiguous recognition and protection of native title' but while also working to 'safeguard the rights of those who hold existing grants of interest in land'.³²

Firstly, the *Native Title Act 1993* validated all existing freehold and leasehold hand titles, thus reassuring farmers and mining companies that their businesses would not be taken from them under a Mabo-based land claim. It confirmed that native title claims would not succeed in the case of residential, commercial and pastoral grants. However, it allowed that native title could be revived once a mine closes. It provided that any other valid grants of title will override native title only to the extent of any inconsistency between that grant and native title; native title could co-exist with another title, such as that of a pastoral lease. (The Wik Decision later confirmed this.) Secondly, the Act set up an independent body—the National Native Title Tribunal—to determine whether native title exists over a particular area of land or water and whether native title still exists over an area where there is also a valid title, such as a farm, so that Aborigines could seek compensation from governments. Compensation could be paid in the form of land or money. Thirdly, in recognition of the fact that many Aborigines would be unable to establish native title, the Act also established a fund to help dispossessed Aborigines to buy and manage land.³²

In parliament, the passage of the *Native Title Act* was described as a 'day of shame' by the Liberal and National Opposition.³³ Despite Coalition fears that indigenous Australians might gain something from Mabo and the *Native Title Act 1993*, at the expense of white Australians, the practical consequences of the Judgement and the legislation were minimal. In most parts of Australia governments have extinguished native title or Aboriginal people have stopped living in their traditional ways. This means claims will not succeed over land where most non-indigenous people live, including: all freehold land (people's homes, town and suburban blocks, shops and offices in business districts in towns and cities, farming properties etc) and land used by the public and government (roads, railways, post offices, public buildings, schools etc). In most cases, the only land left which might be conceivably claimed is vacant crown land in areas where a continuing association with the land can be shown. The Native Title legislation allows states and territories to confirm grants for pastoral, mining or tourism purposes, which are affected by the existence of native title, on a basis which accords with the Racial Discrimination Act and Australia's international obligations. The Government insisted:

The Federal Government's response allows mining, exploration, pastoral and other operations currently being undertaken to continue with certainty. And it takes nothing away from ordinary Australians, pastoralists, miners or other commercial interests.

In the case of the mining industry, the legislation was clear that, where there were existing mining leases and rights, they would continue unaffected and any compensation to native title holders as a result of making these leases valid would be paid by the federal government not the mining company. Companies wanting new mining leases on land claimed by traditional owners or hand determined, as having native title over it would need to discuss with the titleholders or claimants how the development would affect them and their land. Native title-holders will have no veto power. Where there is no agreement the Native Title Tribunal or a state equivalent will make a decision on whether the grant will proceed. The Tribunal's decision may be overridden by governments in either the state or national interest. Aboriginal native title-holders do not

have mineral rights over any hand; governments still control who can mine them. Although the mining industry continues to blame the legal existence of native title for a downturn in exploration levels and argues that 'native title-related impediments' need to be removed, the real impediments are in fact commercial and market derived, and especially since the 1997-98 Asian economic crisis.³⁵ The *Native Title Act 1993* confirmed the validity of pastoral leases including all rights of renewal. This preserved the pastoralists' demanded 'certainty'. Governments would provide compensation that may be necessary to native title-holders as a result of making these leases valid. All the existing rights of holders of pastoral leases would be unaffected by the federal government's legislation. In relation to the tourism industry, the validity of commercial leases was confirmed by the legislation with no change to the condition of the grants. Future grants over native title land would be subject to the standard negotiation requirements and tribunal procedures i.e. negotiation with native title-holders would be needed before any development occurred, just as it would be with any other land title-holder.³⁶

The Wik Judgement and the Native Title Amendment Act (1998)

In 1994 the Wik tribe placed a native title claim on Crown land in Queensland that was subject to a pastoral lease. On 23 December 1996 the High Court of Australia decided that: a pastoral lease does not necessarily confer rights of exclusive possession on the pastoralists; the rights and obligations of the pastoralists depend on the terms of the lease and the law under which it was granted; the mere grant of a pastoral lease does not necessarily extinguish any remaining native title rights; and if there is any inconsistency between the rights of the native title-holders and the rights of the pastoralists, the rights of the native title-holders must yield. Thus, if there is a conflict of rights, the native title-holders come off second best; if there is no conflict, the rights of each coexist³⁷

Prior to the Wik decision it was widely assumed that pastoral leases extinguished native title. In response to the Wik decision, National Party leaders and the NFI demanded that native title be extinguished on pastoral leases.³⁸ Pastoralists' arguments about the need for 'certainty' created the perception that pastoral leases are the private property of the leaseholders. They are not, because they are leases not freehold title. Both the Mabo Judgement of 1992 and the Wik Judgement of 1996 were clear that native title had been extinguished on all land that had been sold to others as freehold title, which includes all homes and farming properties. Howard was thus quite wrong in his televised address to the nation to refer to 'farmers' who were furious to be told that their properties were threatened with native title claims as a result of the Wik decision.' No farmers are jeopardised, for farming is not allowed on pastoral leases. In the case of pastoral leases, the Wik Judgement merely ruled that such leases did not necessarily extinguish native title: native title rights could coexist with the rights of the leaseholder, but if any conflict existed then the rights of the leaseholder prevailed.

The law was recognising the important difference between leases and freehold. According to Mark Hearn, the Wik Decision had done nothing more than recognise the untidy reality of pastoral Australia, that pastoralists have never enjoyed 'exclusive possession' of their leases.⁴⁰ Pastoralists in Western Australia, the Northern Territory and South Australia have always had to provide some Aboriginal access to their pastoral lands.⁴¹ Patrick Wolfe explains that, in the mid-nineteenth century, British colonial authorities sought to devise a means whereby pastoral

settlement might not automatically spell the liquidation of the natives. Their solution was the pastoral lease. Rather than vesting full freehold title in graziers, pastoral leases provided for coexistence between Aborigines and cattlemen, providing that Aborigines could continue with traditional practices such as rituals and hunting native game. As leases they were for a fixed term, were less valuable and accordingly sold for less than freehold title, and were expressly for grazing stock and did not permit the land alterations that go with farming.⁴²

Despite NFF complaints of ‘uncertainty’, all the Wik Decision entailed was an obligation to figure out the precise extent of enduring native title rights, for example, the right to visit sacred sites, hold ceremonies or collect native foods. Such issues would have to be decided on a case-by-case basis or by negotiation between the parties, unless parliament stepped in. Mark Hearn commented:

The only native title rights that may coexist with the rights of a pastoral holding a lease are those that are not inconsistent with the rights of the pastorals. In short, Wik poses no economic threat to pastoralists. They can continue to manage their leases as they see fit.⁴³

Barbara Hocking concluded only racism could explain ‘the widespread implacable refusal to countenance the survival and coexistence of native title on land subject to a pastoral lease’.⁴⁴ Environmental groups were also concerned about the Howard Government’s intentions. Australian Conservation Foundation Director Jim Downey claimed that, if the NFF’s demands for the upgrading of pastoral leases to freehold title and further tax relief to allow non-pastoral uses of the land were acceded to, the environmental impact would be disastrous.”

Whereas Keating had enacted legislation to confirm the Mabo Judgement, Howard set out to subvert both the Mabo and Wik Judgements via his Ten Point Plan and Native Title Amendment legislation. This represented a continuation of the ‘wedge’ politics apparent in his refusal to confront Hanson’s ideas: presenting an ‘us’ (mainstream Australia) against ‘them’ (minority and fringe groupings). In airing his Ten Point Plan, which formed the basis of the Native Title Amendment Bill, Howard complained that the High Court Wik Decision was treating people ‘unequally’ and had ‘pushed the pendulum too far in the Aboriginal direction’.⁴⁶ Yet the Howard Government used the opportunity to diminish native title rights in a number of significant ways, to improve conditions for mining companies and to facilitate the upgrading of pastoral leases to freehold title, even though pastoral leaseholders have paid significantly less for their leases because of the restrictions on the uses to which such land could be put. Howard’s legislation makes the expropriation of Aboriginal land even more complete than hitherto and provides a windfall gain for leaseholders at the expense of indigenous people.⁴⁷

Even after the compromises reached with Senator Harradine,⁴⁸ the legislation enables pastoral leaseholders not only to diversify their holdings to include agriculture and forestry, which the terms of their initial leases had historically denied them in order to respect native title rights in these outback areas; but it also stipulates that in this process indigenous groups have no right to negotiate, even if those activities extinguish native title by preventing continuing association with traditional hand.⁴⁹ As Noel Pearson observed, ‘the automatic ability for all leases to allow full primary production is a stand-out grab-for-more-rights provision by the farmers.’⁵⁰ Also, states will find it much easier to upgrade leases to freehold by the compulsory acquisition of

hand, thus extinguishing native title. And decisions on mining applications on pastoral leases subject to a native title claim will be made by state-based mining warden's courts.¹⁵¹

During the negotiations with Harradine, Western Australian Premier Richard Court and Northern Territory Chief Minister Shane Stone both received promises from the Prime Minister that no deal would be done without their consent, because, as Court put it, 'we are most directly affected' ~152 Indigenous people were deemed unaffected and were not consulted on the final form of the Bill. Senator Minchin for the Coalition explained that Harradine had 'put propositions on behalf of Aborigines'.⁵³ Gladys Tybingoompa described Harradine as a Judas.⁵⁴ Against Harradine's defence that a race-based double dissolution election would be a gift to One Nation, Aden Ridgeway remarked that Harradine had no right to be trading away Aboriginal rights for what he considered to be a greater evil.⁵⁵ When the legislation was finally passed in the Senate 33-31, because Harradine and Mal Colston did not vote against it, Labor Senator Nick Bolkus remarked: 'I stand here appalled at our collective failure to move forward to decency, compassion and real equality for all Australians.'⁵⁶

In responding to Wik, Coalition politicians were divided only as to tactics: how best to secure the interests of pastoral and mining concerns against those of native title-holders. Howard's solution opted for extinction in practice rather than in law, 'extinguishing native title in all but name'; outright extinguishment, he pointed out, had a 'number of drawbacks', most notably the potential cost of the compensation involved.⁵⁷ The obdurate opposition of the Nationals in their determination that native title be extinguished outright suggested either that they were inept in pursuing their own interests or their resistance was staged deliberately by the Howard Government so as to present the Ten Point Plan as a compromise between two opposed camps and not, as it really was, a capitulation to the pastoralists and mining companies.

Because the Wik Judgement had espoused a non-market based form of discrimination, for once of a positive kind, it had greatly affronted corporate prejudices; Geoffrey Blainey, for example, insisted the Wik Judgement was unacceptable because it gave special consideration to one particular racial group: indigenous Australians.⁵⁸ Neo-liberal rhetoric was brought to bear upon the matter: white business interests pleaded equality of opportunity—for themselves. Howard's legislation therefore met with broad corporate approval for its effective containment of 'unfair' competition from indigenous native title-holders.⁵⁹ The *Native Title Amendment Act 1998* secured unfair advantages for those who were insisting loudest about the importance of equal treatment of all before the law. Howard's legislation has the effect of converting the limited leaseholds that pastoralists acquired at a price to match into something akin to freehold title. 'For this', according to Patrick Wolfe, 'they would pay nothing. Moreover, any compensation accruing to Aboriginal people would come out of the public purse—Australian taxpayers could foot the bill for the massive unearned windfall that this bill would deliver to pastoral leaseholders.'⁶⁰ Peter Yu, Kimberley Land Council executive director, described the prospect as 'a whole new round of Aboriginal dispossession'.⁶¹

Reconciliation, the Stolen Generations and the Sorry Debate

The impetus for what has become known as the 'reconciliation movement' was the Report of the Royal Commission into Aboriginal Deaths in Custody, tabled in Parliament in May 1991. This

inquiry investigated the causes of 99 recent cases of Aboriginal deaths in prison. In tabling the Report, Minister for Aboriginal Affairs, Robert Tickner, declared it constituted a scathing indictment of white Australian society's treatment of indigenous Australians and the far-reaching adverse consequences, in matters such as education, housing and health, of their 'dispossession and subordination'.⁶²

In asking why indigenous Australians were over-represented in Australian jails and why so many indigenous offenders were driven to suicide in such significant numbers, the Report provided a vivid profile of the socio-economic situation facing these 99 offenders. The conclusions of the inquiry, according to Clare Ellis, 'held up a mirror' through which 'white' Australia could begin to view the vast range of problems concerning its treatment of the indigenous population. The Royal Commission recommended a process of 'reconciliation', a 'maturing of relationships between both sides', which, according to Commissioner Mick Dodson, would require a 'deeper understanding' of *how* each side sees each other (and *why* this is the case) in order to establish a 'common ground' from which the nation could address the significant issues of Aboriginal disadvantage.⁶³

A formal process of Reconciliation was initiated by the Hawke Government in 1991 during its last days. When introducing the Bill in June 1991, Robert Tickner claimed it would 'signal the beginning of a decade of reform and social justice' 164 The decade in question was to culminate in 2001, the centenary of Federation. He sought and gained bi-partisan support for the idea; Tickner and his shadow counterpart, Michael Wooldridge, shook hands over the dispatch box on the passage of the *Council for Aboriginal Reconciliation Act*. This Act established, by a unanimous vote, the Council for Aboriginal Reconciliation as a statutory authority. Its task, according to its first Annual Report, was to 'improve the relationship between Aboriginal and Torres Strait Islander peoples and the wider Australian community'. Its vision statement described what it would hike the Australian political and social landscape to reflect in the year 2001: 'A united Australia which respects this hand of ours, values the Aboriginal and Torres Strait Islander heritage and provides justice and equity for all.'⁶⁵

When the Council was established, it was criticised by Charles Perkins, who said its goal of reconciliation reflected the Government's reluctant attitude towards any kind of treaty between black and white Australians.⁶⁶ But many other indigenous headers embraced the idea or were at least willing to see how the process developed. Indigenous headers who accepted appointment to the Council included Evelyn Scott, Gatjil Djerkurra, Pat Dodson, Galarrwuy Yunupingu, May O'Brien, Ray Robinson, Jackie Huggins and Djiniyini Gondarra.⁶⁷ However, Dodson and Yunupingu, despairing of the Howard Government's attitudes, resigned from the Council at the height of the Wik Debate.

At the outset of the formal process, Pat Dodson argued: 'To have the type of race relations that are based on understanding, respect and mutual action, all levels and sectors of Australian society need to be involved. To be involved requires knowledge.'⁶⁸ Reconciliation, according to one of the Council's Key Issue Papers in 1994, was an 'anti-racist' strategy 'to promote better community relations'. Better community relations depended on an understanding, gained through a committed dialogue, of institutional and ideological racism.¹⁶⁹

Under the Hawke and Keating Governments the Reconciliation movement was largely a top-down process. Because those governments were strongly in favour of Reconciliation, citizens who cared let them get on with it. In May 1995 the Keating Labor Government established the Human Rights and Equal Opportunity Commission (HREOC) inquiry into the past practice, carried out until the 1970s, of forcible separation of Aboriginal children from their families. It was headed by former High Court judge Ronald Wilson and indigenous leader Mick Dodson. It became known as the Stolen Generations inquiry and was seen by the Keating Government and the Council for Reconciliation as an important part of the reconciliation process.

The extraordinary upsurge of grass-roots mobilisation in support of Reconciliation only really started in response to the Howard Government's obvious hostility to many aspects of the Reconciliation process. In his very first week in office, Howard attacked both the operations and personnel of ATSIC. In response to the sittings of the

HREOC inquiry, Howard said in October 1996 that he had no doubt that the policy that forcibly removed tens of thousands of children from their parents 'caused immense trauma and immense unhappiness to the people concerned', but, as Pat Dodson noted, Howard seemed incapable of making the connection between the forced removal of children and 'people's present circumstances' 170

Later in 1996 he vetoed some of the original clauses of the bi-partisan Resolution on Racial Tolerance. These included recognition of: 'The need of indigenous communities for a sound land base from which to develop an economically secure and self-sufficient future.' And: 'The crucial importance of the maintenance of indigenous culture and heritage to alleviation of the disadvantage currently experienced by indigenous Australians.' The same fate befell Cheryl Kernot's earlier version, which called for 'the express acknowledgement of the past injustice and oppression suffered by Aboriginal and Torres Strait Islander Australians'. Sid Spindler noted at the time that these changes wrought by the Prime Minister 'raise doubts about our capacity to face the past.

On 26 May 1997 the HREOC *Report—Bringing Them Home* was tabled in Parliament. It recommended that a formal apology be made to the stolen generations and called for all Australian parliaments to apologise to Aboriginal children removed from their families.⁷² Howard refused, insisting that the 'general community' did not believe in 'inter-generational guilt'. Hopes for a bipartisan resolution to mark the thirtieth anniversary of the 1967 referendum were dashed by Howard's refusal to include Labor's reference to the referendum being passed with the intent that the power conferred could 'only be used for the benefit' of indigenous people and a specific apology to Aborigines 'for what has been done in the past'.⁷³ As Cohn Tatz observed: 'the past is not a foreign country' to the vast majority of indigenous communities and individuals who continue to experience tragedy, inequality and disorder in their lives.⁷⁴

A few days later, at the May 1997 National Reconciliation Convention, Howard's speech admitted past injustices and expressed personal sorrow, but insisted that 'Australians of this generation should not be required to accept guilt and blame for past actions and policies over which they had no control'. When sections of the audience turned their back on Howard, in disappointment at the inadequacy of this 'apology', Howard adopted a 'hectoring' tone and, with

clenched fist, defended his government's policies that had eroded the gains that had come with recognition of native title in the early 1990s. As Haydie Gooder and Jane Jacobs comment, for the Federal Government of Australia, 'an apology to Aborigines and Torres Strait Islanders was virtually unsayable'.⁷⁵

Robert Manne argues that the Stolen Generations Report, with its emphasis on giving indigenous Australians a space to tell their stories, had the 'power to change forever' the way non-indigenous Australians saw their own country's history. However, an 'Australian version of historical denialism' prevailed.⁷⁶ Instead of raising to the challenge posed by the Report, significant right-wing political and intellectual figures attacked the Report as a product of the 'guilt industry' or a 'sorry industry' set up by white intellectuals who live off indigenous suffering, exploit guilt and deprive the bulk of non-elite white Australia of their own national history. As Matthew Ryan notes, what can we make of a nation that can revel in the defeat at Gallipoli but which is still able to gloss over its most terrible and far-reaching victory—the invasion of this land and the dispossession of its inhabitants? 'Perhaps this partly repressed past remains irreconciled because it is not our past at all—it lives in the present. The attack continues via other means.'⁷⁷ Clare Ellis suggests that the debate surrounding the Stolen Generations is yet another example where landmark historical issues relating to questions of race, dispossession and assimilation, evaded the reconciliation process. It indicated a failure of the reconciliation process to permeate the national consciousness, to the effect that 'understanding' rather than 'unfair!' becomes the order of the day.⁷⁸

In December 1997 the Council for Aboriginal Reconciliation presented to federal parliament a strategic plan outlining the following principles as those essential to the development of a Document of Reconciliation: Constitutional recognition and protection of indigenous rights; recognition of traditional customary law within the Australian legal system; the development of an agreed document on Australia's history; symbolic protocols recognising the special status of indigenous people within the Australian nation; the establishment of a substantial long-term capital fund that compensates indigenous people for past dispossession and provides for economic security; the establishment of regional indigenous governance arrangements as a key mechanism in a new political relationship between indigenous people and Australian governments; and the establishment of a national funding formula that delivers community infrastructure and services on an equitable.

In response to the recommended 'symbolic protocols', it has become common practice since the mid-1990s for public meetings and ceremonies to commence with either an indigenous Australian providing a 'welcome to country' and/or a non-indigenous Australian giving an 'acknowledgment of country'. The Council encouraged people and organisations to acknowledge on special occasions that the land on which people were gathered belonged traditionally to the members and elders of local communities and their forebears, who were custodians for many centuries, and that the land was the place of age-old ceremonies of celebration, initiation and renewal, and that the people's living culture had a unique role in the life of the region. These protocols are now common practice for special events or meetings in many organisations. 80

However, Howard has persistently refused to make an official government apology to the Stolen

Generations. In this way, he stands with those Australians, such as Hanson's One Nation supporters, who have responded to the call for an apology with an intensification of resentment towards indigenous Australians and the special benefits they are seen to receive. Yet, as Gooder and Jacobs note, in the absence of a 'proper national apology' there has been a proliferation of 'minor' apologies, 'an unprecedented outpouring of popular sympathy towards indigenous Australians'.⁸⁷ For example, Jennie George, when President of the ACTU, issued an apology on behalf of the Australian trade union movement. State parliaments have also been more forthcoming than the federal government.

On 28 May 1997 the South Australian parliament expressed 'deep and sincere regret'. On 28 May 1997 Western Australian parliament 'apologises to the Aboriginal people on behalf of all West Australians'. On 29 May 1997 the Senate 'unreservedly apologises'. On 17 June 1997 the ACT Assembly 'apologises'. On 18 June 1997 the New South Wales parliament 'apologises unreservedly'. On 13 August 1997 the Tasmanian parliament 'expresses its deep and sincere regrets ... and apologises'. On 17 September 1997 the Victoria parliament 'apologises to the Aboriginal people on behalf of all Victorians ... and expresses deep regret'. Some time later, on 25 May 1999, the Queensland parliament 'apologises ... and expresses deep sorrow and regret' 182

On 26 May 1998, the first anniversary of the tabling of the HREOC Report, which became the first National Sorry Day, there was still no apology forthcoming from Howard. On 13 June 1998, 11 One Nation members won seats in the Queensland election, because the coalition parties exchanged preferences with One Nation. After the federal election on 3 October 1998, Howard's victory speech said 'I also want to commit myself very genuinely to the cause of true reconciliation with the Aboriginal people of Australia'. Ever optimistic, Charles Perkins confessed: 'I was quite encouraged by that. It felt really good. It looked like we were going to go on a new tack and develop good relations.'⁸³ However, it was just election night talk. Immediately after, Howard refused to revisit the apology issue and vowed to pursue reconciliation his own way. He reappointed John Herron as Minister for Aboriginal Affairs, a move criticised even by Gatjil Djerrkura, the moderate indigenous leader whom the Government had made ATSIC chairman. Howard also appointed Immigration Minister Philip Ruddock as a 'special envoy for reconciliation'. Within two weeks of reelection, Howard told Aboriginal people they should see themselves 'as part and parcel of a harmonious Australian community'.⁸⁴

In the words of Peter Yu, executive director of the Kimberley Land Council, Howard 'again showed himself to be part of that awful Australian ignorance that has so marred the path to reconciliation in the past few years'. Under the heading 'Past truths are essential to future harmony', Yu explained the issues from an indigenous perspective:

We are not just another minority ethnic group: we are the first people of this land, and we continue to have our own internal systems of law, culture, land tenure, authority and leadership ... Attempts by indigenous people to assert and protect legally recognised rights to native title, to seek justice for the indecencies that resulted in the stolen generations, to plan, through self-determination, a future for our children that will overcome the tragedies of the past, have all been shoved aside in a climate of racial intolerance and hostility... The 10-year statutory

reconciliation process enjoyed bipartisan support when it began in 1991. It is the Prime Minister who has created a political hostage out of reconciliation, not indigenous Australians. To put reconciliation back on the path of possible success, Howard must both heal the wounds of recent years and reinvigorate a national commitment to the process. Underpinning the former is an apology for stealing Aboriginal children from their families. The Government must also embrace the right of indigenous people to participate in the reconciliation process on their own terms.⁸⁵

Mick Dodson believes the real yardsticks that matter on the road to reconciliation are socio-economic: 'We can't say we have reconciliation when our life expectancy is 20 years less than other Australians'. However, he also called for 'internal decolonisation' in the way Aboriginal affairs are administered. Referring to the Ten Point Plan, he commented:

What I see now is the spectacle of two white men—John Howard and Brian Harradine—discussing our native title while we're not even in the room. How symbolically colonialist is that? Until our lives cease to be controlled by government and its agencies, there can be no true reconciliation.⁸⁶

With Howard still declining to offer the recommended apology, the Governor-General, Sir William Deane, issued a public statement on 16 October 1998, in which he argued that

the achievement of a just and lasting reconciliation between the Aborigines and Torres Strait Islanders and the Australian nation as a whole is one of the most significant issues we face as we move towards our second century as a nation. To achieve such reconciliation, we must address the problems of the spirit and of lack of self-esteem as well as the appalling problems of material disadvantage in health, housing, education and employment where, on virtually every measure, indigenous people are far worse off than other Australians.

With the average Aboriginal baby having a life expectancy 20 years less than the life expectancy of the average non-indigenous Australian, he maintained progress towards the goal of true reconciliation depended on real progress towards the position where the future prospects of the average Aboriginal baby were comparable to those of the average non-Aboriginal one. 'For how can we be truly reconciled while our children's hands cannot touch?'⁸⁷

Howard responded, insisting an apology to the stolen generations was off the agenda, not because of any fear of the possibility of compensation claims, but because of 'commonsense'. He explained to *The 7.30 Report* later in October 1998: 'I have a very genuine belief that you express collective regret for things for which you are collectively, in a direct sense, responsible. I don't think it applies to the current generation of Australians.' He argued the importance of not 'dwelling too much on past deeds and events'. *Australian* columnist Cathy Prior declared: 'It pains me to listen to the man who will lead this nation into the 21st century ... Injustices have indeed been committed by members of current generations of Australians, whether through direct involvement or silence. An apology recognising collective responsibility is not such a big ask.'⁸⁸

In July 1999 Pat Dodson, who had resigned as chair of the Council for Aboriginal Reconciliation, called for Aborigines to abandon their long and bitter quest for Howard to

apologise.

It's a waste of time to keep asking John Howard to apologise. He's not capable of doing it, so let's get on with the real business. I am not so immobilised by the Prime Minister's refusal that I think reconciliation has to be stalled because of it.

Dodson argued that the critical task was to lobby for federal legislation to extend the reconciliation process for another decade and that the outstanding issues for stage two were: APOLOGY and compensation for the stolen generations; CLARIFYING the rights of native title holders; REFORMING government funding arrangements responsible for welfare dependency of many Aboriginal communities. Dodson added that the Howard Government's approach to reconciliation was marked by 'deliberate campaigns to attack individuals and push them to the sidelines' 189

Many non-indigenous Australians have heeded Pat Dodson's call in the closing session of the Reconciliation Convention in May 1997 to carry on the reconciliation process despite and without the Howard Government. The strong grass-roots movement in favour of reconciliation is a clear response of disapproval and disavowal of the Hanson/Howard position on indigenous rights: a backlash against the backlash. The failure of the federal government to deliver a 'proper' version of an apology, according to Gooder and Jacobs, has brought together large numbers of settler Australians—whom they dub the 'sorry people'—in a collective expression of sympathy towards Aborigines and Torres Strait Islanders.⁹⁰

The Howard Government's response to the Wik Judgement was also fuel to the grass-roots movement for reconciliation. By March 1998, according to Wendy McCarthy, the convenor of Wik Ed, the movement was spreading like a bushfire. Historian Henry Reynolds had spoken to hundreds of reconciliation groups across the country in the previous eighteen months. Aden Ridgeway, then executive director of the New South Wales Land Council, was addressing up to a dozen reconciliation meetings a fortnight.⁹¹ In addition to the growth of community-based reconciliation groups, there were dedicated web sites, bulging sorry books and Aboriginal flags flying from local government buildings.⁹²

The Council for Aboriginal Reconciliation's *Annual Report 1997-1998* declared the Council had been

inspired and invigorated by the rapidly growing people's movement for reconciliation. Just over a year ago, some 20 Australians for Reconciliation groups existed throughout the country. At 30 June, this number stood at more than 260. Many other reconciliation groups are based in churches, workplaces, educational and professional institutions, and national and local community organisations. These groups operate independently of the Council. 193

Support was also forthcoming from ethnic community associations. For example, the annual general meeting of the Australian Arabic Council in Melbourne on 19 November 1998 acknowledged the contribution of recent immigrants to 'the process of dispossessing Aboriginal people of their land, their culture and heritage' and pledged 'full support for the Aboriginal community's inherent right to self-determination' and support for 'the process of reconciliation

as a way to heal the wounds of the past and work together towards a just and equitable future'.⁹⁴ Jackie Huggins, University of Queensland academic and indigenous spokesperson, believes mainstream Australia is ready and willing to heed what indigenous people are saying: listen, hear, act, apologies, reconcile and move on together. 'However, the stumbling blocks remain a minority of politicians who should find it in their hearts to admit they might be wrong in their reading of the situation and what mainstream Australia is saying.'⁹⁵ In March 1999 the Council produced 'Ten steps to reconciliation', drafted by Huggins and novelist David Malouf:

1 .Speaking with one voice, we the people of Australia, of many origins as we are, make a commitment to go on together recognising the gifts of one another's presence. 2.We celebrate the fact that the Aboriginal culture is the oldest living continuous culture on the planet. That culture is still alive. It is sacred, spiritual and practical, a unique way of living in harmony with the land. Through the land and its first peoples, newcomers to this country may taste that spirituality and rejoice in its grandeur.

3 .We acknowledge that Australia was colonised without the consent of the original inhabitants.

4.Our nation must have the courage to own the truth and heal the wounds of its past so that we can move on together at peace with ourselves.

5.We hereby take this step: as one part of the nation expresses its sorrow and profoundly regrets the injustices of the past, so the other part accepts the apology and forgives. 6.Our new journey then begins. We must learn our shared history, walk together and grow together to enrich our understanding.

7.Until all Australians have an equal chance to achieve their aspirations, and an equal voice, we will be a diminished nation.

8.We pledge ourselves to stop the injustice and address the disadvantage that Aboriginal and Torres Strait Islander peoples face in their lives.

9.We respect the right of Aboriginal and Torres Strait Islander peoples to remain responsible for their own destinies.

10.We can stand proud as a united Australia that respects this land of ours, values the Aboriginal and Torres Strait Islander heritage, and provides justice and equity for all.⁹⁶

Critics have pointed out that the wording of Step 5 puts the 'A word', not in the mouth of those delivering it, but in the mouth of those receiving it; and that there is no use of the term 'self-determination', because Howard thinks it implies the notion of a separate nation.

On 26 May 1999 Senator John Herron was 80 minutes late for the Journey of Healing ceremony between black and white Australians at Parliament House during the National Day of Healing. When invited to get up on stage and sing the Journey of Healing song, he would not and was silent. When the bucket went around to help pay for the ceremony, he held out empty hands. *Age* columnist Tony Wright asked: 'can anyone imagine the Industry Minister standing up a meeting

of 1000 business leaders

Yet this was the biggest single reconciliation event since the last election.”⁹⁷ Moreover, the Government was continuing to spend millions of dollars opposing the court-case in Darwin of two stolen generation victims suing for compensation. Senator Aden Ridgeway made his maiden speech on 25 August 1999, in which he called for an apology to express deep and sincere regret. The following day, as a result of negotiations between Howard and Ridgeway, the federal parliament passed a motion of reconciliation, that this house:

- a. Reaffirms its whole-hearted commitment to the cause of reconciliation between indigenous and non-indigenous Australians as an important national priority for all Australians;
- b. Recognising the achievements of the Australian nation, commits to work together to strengthen the bonds that unite us, to respect and appreciate our differences and to build a fair and prosperous future in which we can all share;
- c. Reaffirms the central importance of practical measures heading to practical results that address the profound economic and social disadvantage which continues to be experienced by many indigenous Australians;
- d. Recognises the importance of understanding the shared history of indigenous and non-indigenous Australians and the need to acknowledge openly the wrongs and injustices of Australia’s past;
- e. Acknowledges that the mistreatment of many indigenous Australians over a significant period represents the most blemished chapter in our national history;
- f. Expresses its deep and sincere regret that indigenous Australians suffered injustices under the practices of past generations, and for the hurt and trauma that many indigenous people continue to feel as a consequence of those practices; and
- g. Believes that we, having achieved so much as a nation, can now move forward together for the benefit of all Australians.⁹⁸

In his address Howard conceded: ‘Without any doubt, the greatest blemish and stain on the Australian national story is our treatment of the indigenous people.’ However, he insisted on proceeding thus:

The present generations of Australians cannot be held accountable for the errors and misdeeds of earlier generations ... The Australian people do not want to embroil

themselves in an exercise of shame and guilt. Australians know that mistakes were made in the past; know that injustices occurred and that wrongs were committed. But for the overwhelming majority of the current generations, there was no personal involvement of them or of their parents.¹⁹⁹

A Labor Opposition amendment, which failed, called on parliament to ‘unreservedly apologies’ and to compensate Aborigines who had been forcibly removed from their families. The motion was carried without a formal vote after the Opposition remained silent. Senator Bob Brown of the Australian Greens voted against it in the Senate, because of its inadequacy.²⁰⁰

Brown’s position accorded with a subsequent statement by Land Council heads, including Pat

Dodson and Murrandoo Yanner, which condemned the motion as a ‘hasty and disgraceful pretence’ and said nothing but the word ‘sorry’ would be acceptable. It was criticised, too, by Pat Dodson and Yunupingu who, with eight other indigenous leaders, signed a statement condemning both the wording and process behind the motion and insisting: ‘We should not forget that the separation of indigenous children from their families is an act of genocide.’²⁰¹ Ronald Wilson stated publicly that the motion fell short of his inquiry’s recommendations:

It is the healing of the heart that was the concern of the inquiry, and this apology, I am afraid, goes nowhere towards meeting that need. It is putting the emphasis on what a great nation we are and then, incidentally, it talks about the injustices to Aboriginal people with no mention of the forcibly removed children. It just fails to recognise the personal pain still being suffered by indigenous people today because they never knew their mothers and families.²⁰²

Ridgeway defended exclusion of the word ‘sorry’, saying ‘regret’ was more appropriate: ‘you don’t go up to a person at a funeral and apologise, you express some deep regret about a sad loss’²⁰³ His position was supported by Gatjil Djerrkura, Evelyn Scott, and Lowitja O’Donoghue. Scott conceded that some indigenous people, and the federal Opposition, did not believe the motion went far enough in expressing regret. ‘Personally, I believe that the expression of regret in effect amounts to an apology and in the context of the last two years is of great significance.’ She added that, without agreed strategies to advance the lives of indigenous people, the finest words will mean little for indigenous Australians. ‘Much remains to be done by all Australians of goodwill if we are to make reconciliation a reality.’²⁰⁴

On 28 May 2000, as part of ‘Corroboree 2000’, an estimated quarter of a million people took part in the ‘People’s Walk for Reconciliation’ across Sydney Harbour Bridge. During the rest of 2000 there were substantial turnouts for Reconciliation marches in the other state capital cities. ‘Reconciliation has begun to enter the hearts and minds of the Australian people creating one of the most determined and vibrant people’s movements ever seen in the history of the nation.’ The Council for Aboriginal Reconciliation’s Final Report in December 2000 insisted: ‘Aboriginal and Torres Strait Islander and other Australians are increasingly working together to recognise and help heal the wounds of the past and move on together.’ It estimated that there were 396 local reconciliation groups dispersed throughout the country. ‘The people’s movement has played an important role in shaping a more inclusive Australian identity.’ It claimed that the acknowledgment during the Sydney 2000 Olympics and Paralympics of Aboriginal and Torres Strait Islander peoples and the recognition of their cultures and contributions could not have occurred without the

reconciliation process. However, while the Council claimed there was majority support for the concept of reconciliation it also admitted that: ‘Ignorance, apathy, resistance and opposition still exist in parts of the wider community about reconciliation and the need to overcome Aboriginal and Torres Strait Islander disadvantage.’²⁰⁵

In the 2000 Wentworth Lecture, Pat Dodson expressed his doubts that many indigenous people will experience the rewards of their struggle for ‘freedom and dignity in their own lifetime’ ~206 The Council for Reconciliation acknowledges that indigenous Australians ask: why should they reconcile when they’ve done nothing wrong—the wrongs have been done to them. ‘Some

Aboriginal and Torres Strait Islander peoples also remain unconvinced about how reconciliation can improve employment, education and housing outcomes and make a difference to their daily life circumstances.²⁰⁷

Clare Ellis contrasts the ‘bureaucratic inertia’, which many indigenous leaders blame for the enduring tragedies within their communities,²⁰⁸ with the grandiose plans for Reconciliation Place in Canberra, a \$5 million mound on a pedestrian pathway linking the National Library and the National Gallery, ‘where visitors will be able to sit and contemplate reconciliation’. Announcing the plans in June 2001, the Minister Assisting the Prime Minister for Reconciliation, Philip Ruddock, maintained Reconciliation Place ‘physically and symbolically signifies the importance that we all attach to this process of reconciliation’ 209 With \$5 million wasted on a monument, while indigenous people suffer daily the continuing legacy of destruction, discrimination and disadvantage, it is hardly surprising that many Aboriginal Australians agree with Isabell Coe, longtime indigenous activist and caretaker of the Aboriginal Embassy: ‘Well, the reconciliation process, there’s nothing there for Aboriginal people—it’s just a feel good exercise for non-Aboriginal Australia’ 210 In July 2000 the Aboriginal Embassy moved from the lawns of Old Parliament House in Canberra to Victoria Park at the corner of City and Parramatta Roads in central Sydney, sacred land that belongs traditionally to the Eora people. Isabell Coe explains that the relocated Tent Embassy calls for a cease-fire and for peace on equal terms between sovereign nations.

The Aboriginal Tent Embassy is a Peace Keeping Camp. It is not a protest. There has been enough bloodshed, it is time to end the war.²¹¹

Timed for maximum publicity before and during the Olympics, Coe explains that relocation of the Embassy was to make the world aware of the continuing genocidal war against indigenous Australians in the hope that it could be ended and Aboriginal sovereignty acknowledged so that a treaty could be entered into by both Black and White Australia: ‘this isn’t just a token gesture like the walk over the bridge, this is real, and hopefully by the end of this process there may be some sort of legal document that Aboriginal people want to put up to the government.’²¹²

Other indigenous activists continue to hope for more from the reconciliation process. As with all social movements, there are divisions and disagreements within the Aboriginal movement. Yet it is this movement, and only this movement, that represents the aspirations of Aboriginal Australians to formulate their own demands and run their own affairs independently of those who dispossessed them against their will. This autonomous social movement, uniting Aborigines the length and breadth of the continent, provides the strongest pressure yet felt for some improvement in

relations between indigenous and settler Australians. In particular, the demand for land rights has forged a fundamental unity amongst all kinds of Aboriginal activists against the white world that attempts to offer individual solutions to some of them. In the face of Howard Government attacks upon Aboriginal Australians, the movement has become rather more united than in the past, according to Jackie Huggins.

We are more united in defence against racism and all its manifestations than ever before. We

have been disempowered in overt and covert ways, with cuts to ATSIC, Abstudy, bilingual programs and universities, and with racial vilification, attacks on native title, stolen generations and so on.²¹³

Marcia Langton, Foundation Professor of Indigenous Studies at the University of Melbourne, describes the atmosphere created by the Howard Government as appalling.

It's probably the worst it's ever been. I don't think there's ever been such ill-will about the administration and policy development in Aboriginal affairs ever in the 20th century, having due regard to previous historic periods and different ways of thinking. I mean, these blokes are reinventing the 19th century.²¹⁴

These comments point to the immense difficulties currently faced by the Aboriginal movement in a political climate shaped by neo-liberal values, which refuses to acknowledge the connection between past injustices to indigenous Australians and their continuing disadvantage and the urgent need for compensation and redress in order to work towards the possibility of greater equality between indigenous and non-indigenous Australians. Constantly harping on the 'unfair' advantages supposedly given the poorest and weakest, right-wing commentators show no embarrassment about the truly unfair advantages perpetually dished out to the richest and strongest. Despite the reality that indigenous Australians do not even receive equality of treatment, the neo-liberal obsession with strict formal equality of treatment conveniently ensures the perpetuation of actual inequalities. That is its aim. The Council for Aboriginal Reconciliation concluded in its Final Report that continuing acute disadvantage, discrimination and racism suffered by Aboriginal and Torres Strait Islander peoples remains the biggest challenge for reconciliation. In short:

'Reconciliation requires overcoming differences in social and economic outcomes between Aboriginal and Torres Strait Islander peoples and other Australians.'²¹⁵ How? Gary Foley maintains: 'There needs to be some sort of drastic change to society, change of significant magnitude to shake society to its foundations and make them realise that inequity is not the way to go.'²¹⁶