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**THESIS**

***THE ABORIGINAL FLAG***

By

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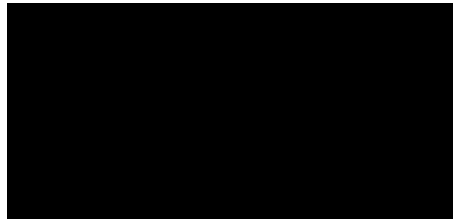
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## Statement

This volume is presented as a record of the work undertaken for the degree of Doctor of Philosophy at Sydney College of the Arts, University of Sydney.

I certify that the intellectual content of this thesis is the product of my own work and that all the assistance received in preparing this thesis and sources have been acknowledged.

Signature



Matthieu Gallois



Aboriginal and Torres Strait Islander persons are respectfully advised that this thesis contains names and images of deceased persons, and culturally sensitive material.

## ***The Aboriginal Flag***

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## Abstract

Is the *Aboriginal Flag* art? And, if it is, to what end does that claim serve? ‘Art’ is not a helpful noun, and certainly a risky one on which to base an argument. Yet, to fail to read the *Aboriginal Flag* as art – or, more precisely, to fail to read it as Indigenous activist art – is to fail to understand the *Aboriginal Flag*, and more broadly the role of culture in Indigenous activism, post European settlement. The *Aboriginal Flag*’s Indigenous and Western art epistemologies are instrumental in shaping its form and semantics. As Aboriginal art, the flag represents a continuum with traditional Aboriginal themes and aesthetic values. In a Western context, it is read as a flag, and it exists as a mass-produced object. In all its guises the *Aboriginal Flag* has melded itself into many aspects of popular imagination and become one of Australia’s significant symbols. The contested history of the *Aboriginal Flag* – evident in the passion it evokes on both sides of Australia’s race-based cultural divide – demonstrates that both white and black Australians understand the *Aboriginal Flag* to be a powerful political symbol. The *Aboriginal Flag* is therefore two things simultaneously: a work of art and an activist symbol. As a successful pairing, this alliance is rare because each entity or discipline has different values and agendas: activism seeks to bring about social change, art-making is concerned with the subject of art. To confuse matters further, as a work of social and political art the *Aboriginal Flag* achieves something very rare: it brings about social change. Understood in this way, the *Aboriginal Flag* has three conceptualising foundations: art, activism and social change. In its totality, the *Aboriginal Flag* represents evidence of a particular type of art – of which it is exemplary – that remains largely unrecognised as an artistic genre. In light of these factors, it is necessary to define the *Aboriginal Flag* as distinct from other social and political contemporary works of art that have emerged in recent decades. These art-based interpretations of the *Aboriginal Flag* constitute the architecture or, more precisely, the armature of this thesis. They give form and structure to the flag’s histories and meanings that in their totality form a cohesive reading of the *Aboriginal Flag* that is whole and distinctly Indigenous.

## Introduction

The *Aboriginal Flag* has influenced and shaped race relations, and changed Australian society. Its power in part derives from its particular, acute resolution, which has afforded it a multiplicity of meanings and associations. The symbolism of the flag describes the relationship of people to land, land to culture and culture to identity: concepts of great profundity for Indigenous Australians. By association, the *Aboriginal Flag* is an affirmation of pride. It claims and asserts Aboriginal land rights, advocates Indigenous self-determination, repudiates the insidious policies and culture of assimilation and has come to symbolise the complex notion and claim of Indigenous sovereignty. In both everyday interpersonal interactions, and complex social cultural political forums, the flag is not a passive symbol. Rather it is a catalyst that sets the agenda, argues the point and brings about social change. Worn on the self in the form of a T-shirt or tattoo, the flag represents a deeply personal refutation of assimilation. Flown after winning Olympic gold in front of a TV audience of over a billion people, the flag affirms Aboriginal Australians' rightful place as Australia's first nations people; it affirms Aboriginal land rights, sovereignty, power and pride. More broadly, the *Aboriginal Flag* has transcended race relations and acted as both a symbol and catalyst for change in attitudes towards multiculturalism in mainstream Australian society. The latter is perhaps the flag's greatest legacy. The contemporary practice of flying the Aboriginal and Torres Strait Islander flags in the public domain represents the fracturing of Anglo-Celtic cultural hegemony in Australia society. Or as phrased by the flag's designer, Luritja/Wombai custodian Harold Thomas, it has contributed to 'a shift to Australians being more accepting of different people' (Thomas, 2009 p. 39). As described, the *Aboriginal Flag* has three concurrent and interdependent themes: art, activism and social change. The flag's definition as art reveals its indigeneity. Activist art offers a conceptual framework for understanding the *Aboriginal Flag*, and, in turn, the flag acts as proof of the validity and need for an activist category of art. The *Aboriginal Flag* has brought about social change.

Thomas designed the *Aboriginal Flag* in 1971. Its history falls into two distinct periods. The flag's first 25 years witness its seemingly effortless conception and dissemination across the Australian physical and political landscape, Indigenous Australia's immediate and unanimous claim of ownership of *their* flag, and the flag's



incremental but seemingly inevitable eventual triumph over institutionalised bigotry and racism. By contrast, the proclamation of the *Aboriginal Flag* as an official flag of Australia in 1995, and Thomas's assertion of his copyright ownership of the flag in 1996 mark a divisive crossroads in its history. The flag that once symbolised all causes Aboriginal has become the flag of multiculturalism, reconciliation (most notably at the Olympics), copyright ownership disputes, state appropriation and symbolic colonisation.

As the first long-form academic study of the Aboriginal Flag, this thesis documents the key facts and historical events that establish the flag's evolution from idea to national symbol. This task finds itself at the crossroad of Indigenous oral histories and ways of thinking and European inscribed academic traditions. Historically, European perspectives and interpretations of Indigenous issues have dominated Australia's official histories. In recognition of this historical bias, and my position as a non-Indigenous researcher, this thesis gives sustained precedence to the statements of Aboriginal activists and scholars. Their statements have been studied to identify and establish key Indigenous perspectives and views on the social, political and cultural context of the *Aboriginal Flag's* conception, meaning and distribution. Their words, often quoted at length, serve as testimonials to Indigenous histories. Their inclusion has the added benefit of affording the reader a sense of the syntax of Indigenous activism in Australia.

A central contention of this thesis is that the *Aboriginal Flag* is a work of art. As such, throughout 'Aboriginal Flag' is given in italics, in accordance with the standard practice for the titles of works of art. For most non-Aboriginal people, this argument is counter-intuitive. When they see the *Aboriginal Flag*, they only see a flag within Western vexillological (the study of flags) points of reference. In this sense, the flag represents a shared cross-cultural object that is understood differently by Aboriginal and non-Aboriginal Australians.

Counter-intuitively, Western art historical and theatrical frameworks can also be used to substantiate an emerging consensus among art professionals that the *Aboriginal Flag* is indeed art. Thomas's views, within these frameworks, are the most substantive opinion on the flag's status. As an artist, Thomas has jurisdiction over the classification of the things he makes. He has consistently and emphatically stated that he conceived the flag as art. His claim is substantiated by Indigenous academic, activist and artist, Brenda Croft, and Indigenous activist, lawyer and senior initiated

Indigenous man Michael Anderson, both of whom have a deep understanding of the role of art in Indigenous activism.

The acceptance of the flag as art has second- and third-tier repercussions for our understanding and reading of the flag. Understood and accepted as a powerful activist ensign, the flag, by extension, also has to be accepted as activist art. In this study, activist art is identified as a distinct category of art-making within the larger set of social and political contemporary art practices that have emerged in recent decades. This idea of activist art serves to inform our understanding of the *Aboriginal Flag* in ways that differentiate it from other social and political works of art, and it is a means of highlighting the flag's very considerable achievements as a dynamic symbol. For the purposes of this thesis, activist art combines the values and agendas of both art and activism.

The alliance of activism and art is not common, in part because the practice of activism and the discipline of art have different values and agendas: whereas activism seeks to bring about social change, art-making is concerned with the subject of art. In contrast to social and political artists, activist artists seek to go beyond being cultural producers and commentators on society – agents who are satisfied by the effects of their work – to become active forces of change in society. Just as activists launch campaigns with clear quantifiable goals, activist art has similarly quantifiable objectives. As an extension of this rationale, as a genre of art-making, activist art can only be identified retrospectively, when a clear link between a work of art and social change in society can be identified. This can take decades to determine, as shown by the example of the *Aboriginal Flag*. Activist art that tries but fails to bring about change exists simply as social and political art, a far larger grouping of practices. In Australia, very few works of art can be said to have brought about social change. Two prominent examples of activist art are David McDiarmid's gay and AIDS-activist art posters and Peter Dombrovskis's environmental art photograph *Morning mist, Rock Island Bend, Franklin River, South-West Tasmania, Australia* (1979).

Both Richard Bell's *Pay the rent* and the *Aboriginal Flag* share land rights themes, however, a great gulf separates these work's efficacy as activism. *Pay the rent*'s political agency is absorbed and nullified within its institutional 'home' and art discourses. There is no expectation that *Pay the rent* has any agency in the recompense of stolen Aboriginal land. There is, however, an unfortunate sense that Western institutions or individuals who purchase Bell's art are purchasing something

akin to Catholic indulgences for past colonial sins. Bell's work highlights many of the shortcomings of social and political art, from an art-activist perspective. By contrast, the identification of the *Aboriginal Flag* as a catalyst for social change, its description as activist art and the identification of other similar works all serve to illustrate a powerful alternative set of expectations and parameters of what a genre of social and political art can achieve.

This study's focus on activist art bears out the role of Aboriginal culture in Indigenous activism. This idea is partly indebted to Michael Anderson, who asserts that Indigenous artefacts are 'Certificate of Title' to land. Whereas many Aboriginal and non-Aboriginal art practitioners, theorists and historians have commented on the relationship of art and politics in Aboriginal cultural practice, their statements are characterised by their brevity. The role of Aboriginal culture in Indigenous activism, and the meaning and potential political power of Indigenous artefacts, deserves sustained research and discussion.

Art's relationship to politics has called forth a wide body of literature in Western academia that dates back to the late eighteenth century (when Australia was first colonised). That literature, however, does not consider Australian Aboriginal social and political cultural practice. Jacques Rancière, for example, affirms that 'there is no criterion for establishing an appropriate correlation between the politics of aesthetics and the aesthetics of politics' (Rancière, 2004 p. 64). The *Yirrkala Church Panels* (1962–63), the *Bark Petition* (1963), the *Aboriginal Flag* (1971), the *Tent Embassy* (1972), the *Ngurrara Canvas* (1997) and *Karlamilyi* (2010) are works that contradict this view. In these Indigenous works, art and politics, in their colonial contexts, fold in on themselves and become one and the same entity.

Between January and July 1972, three flags, each articulating quite different interpretations and visions of the Aboriginal cause were flown at the *Tent Embassy* in Canberra. One was a version of the Pan African flag created in 1920 by the Universal Negro Improvement Association led by Marcus Garvey; the other was a flag created by an activist from Nowra, New South Wales. And the third was the iteration here titled the *Aboriginal Flag*. The *Aboriginal Flag's* emergence as the Aboriginal flag reveals much about the premises, values and goals of Indigenous activism in the early 1970s. Through the Pan African flag, the *Aboriginal Flag*, and more broadly Australian Indigenous activism, is contextualised within the international Black Power movement. That history affirms that Australian Indigenous activism did not

emerge in isolation. It was responsive to, and influenced by, international social and political movements that recast the politics of race relations the world over in the twentieth century. Despite their shared experiences, goals and friendship, great social, cultural and historical differences differentiate the Black Power movements of the United States and those in Australia. Significantly, African Americans, not Indigenous American Indians, dominated the civil rights movement in the United States. Henceforth, civil rights, not land rights, dominated the agendas of American protest movements.

Land rights, sovereignty and self-determination frame the central platforms of Indigenous political struggles of the twentieth and twenty-first centuries. In its symbolism, the *Aboriginal Flag* relates to and references these themes. These platforms are introduced through the concept of *terra nullius* as it relates to Australia's colonisation. The idea of *terra nullius* transcended its legal context and permeated social relations between Aboriginal and non-Aboriginal people. The colonialists, through passive and active means, conscious and unconscious acts, attempted to will the fiction of *terra nullius* into reality. For much of Australia's colonial history, Aboriginal people were the continent's invisible constituents. The *Aboriginal Flag* affirmed in the 1970s and 1980s, in the first instance, the survival and non-invisibility of Aboriginal people.

The *Aboriginal Flag*'s composition represents, as Thomas puts it, 'black people's connection to the red land' (Thomas, 2002). In and of itself, the flag's symbolism is a powerful argument for land rights, and it has been used as a rallying call since it was adopted as the pan-Aboriginal flag at the Tent Embassy in 1972. The *Aboriginal Flag* and the Tent Embassy colluded thematically. Both symbolically affirmed what was then the central platform of Indigenous activism: land rights. In 1974, just a few years after the initial Tent Embassy action, land rights went from being a political demand to being a reality when Gough Whitlam's Labor government returned land to the Gurindji people of the Northern Territory. Over the ensuing decades, all Australian states and territories passed land rights acts (Commission, 2013). With the benefit of hindsight, however, the genesis of these victories is more firmly rooted in the groundbreaking actions and campaigns that predate both the Tent Embassy and flag. The *Bark Petition*, the Wave Hill strike (1966) and general Indigenous political mobilisation of the 1960s and early 1970s all share a claim in the ensuing land rights victories. By the time the flag was launched into the public

domain at the Tent Embassy, land rights activism already had considerable momentum.

For most contemporary non-Indigenous Australians, the term ‘sovereignty’ does not have the day-to-day meaning and significance that it holds for Indigenous Australians. The term has come to represent, as noted by Larissa Behrendt, self-determination, recognition of culture, and a recalibrated relationship with the Australian state. Increasingly, as land rights were incrementally granted across Australia, the *Aboriginal Flag*’s meaning shifted and, for many Aboriginal Australian people, it came to symbolise their claims for sovereignty. Implicit in the display by Aboriginal Australians of their flag is the statement to the wider community that Indigenous ‘Australians’ have never relinquished their sovereignty either to the British Crown or to the Australian state.

For much of the nation’s history, Australian race relations have been dominated by policies of assimilation. In the form it has taken in Australia, assimilation represents an attack on Aboriginal identity and culture that many Aboriginal people describe in terms of cultural genocide. It was successful in its aims in part because it was enforced, one to one, by Anglo-Celtic citizens who supported the government’s assimilationist objectives. Harold Thomas has stated that the policy and culture of assimilation had the effect of making Aboriginal people feel ashamed of their Aboriginal identity (Thomas, 2002). The *Aboriginal Flag*, particularly when Aboriginal people wear it (as badge, T-shirt or tattoo), is a deeply personal rejection of assimilation and an affirmation of black identity. It has played a significant role in rupturing the culture of assimilation in Australian society and instilling pride in Aboriginal identity.

A number of case studies demonstrate the argument that the *Aboriginal Flag* has brought about social change. Principal among these case studies are the burning of the *Aboriginal Flag* by the mayor of Shoalhaven, New South Wales, in 1982 and Cathy Freeman’s flag-waving activism at the 1994 Commonwealth Games. The latter culminated in the flag – and the issues it represents (sovereign Aboriginal culture and identity, land rights, a defiance of the culture and policies of assimilation) – achieving greater acceptance by the wider non-Aboriginal community. The flag’s contemporary power as an activist symbol can also be demonstrated through a comparative study of the *Aboriginal Flag* and the dendroglyphs located in the small urban rural community of Wellington in central New South Wales. Both the *Aboriginal Flag* and the carved

trees mark and claim Indigenous custodianship of land in Wiradjuri country. These trees constitute the focus and flashpoint of race-based tensions relating to land ownership between the local Wiradjuri people and the settler farmers of the region. Relative to the dendroglyphs, in the second decade of the twenty-first century, the *Aboriginal Flag* is shown to have little legal or symbolic power in Wiradjuri country.

The proclamation of the *Aboriginal Flag* as an official flag of Australia in 1995, and Thomas's assertion of his copyright ownership of the flag in 1996, mark significant crossroads in its status and reading. As it now stands, the *Aboriginal Flag* is perhaps the only flag in the world that is owned by an individual, but which represents a whole people. Western laws have made Thomas the flag's sole gatekeeper. The values of copyright law – as they relate to notions of ownership – are diametrically opposed to Indigenous community values emphasising group ownership and the sharing of resources. Yet, were it not for Thomas's copyright claim, the *Aboriginal Flag* would be an official flag of Australia, but with no Aboriginal organisation or individual having jurisdiction over its use or meanings: this could only be a disastrous outcome for Indigenous Australians. As a work of art, and as a flag that represents Indigenous Australians, the *Aboriginal Flag* has come to sit in an awkward and lonely place that traverses seemingly irreconcilable sets of values and cultures.

Local, state and federal governments have earned cheap symbolic mileage from the use of the *Aboriginal Flag* since 1995. In turn, they have dramatically raised the flag's visibility and profile and thereby placed themselves in a vulnerable position. The flag now inhabits a space created and determined by Australian governments and Western copyright laws, over which Thomas has ultimate control. Thomas has the power to lower the *Aboriginal Flag* to half-mast to memorialise over 220 years of brutal colonisation. He could elect to withdraw the flag's use altogether from all Australian government buildings and public spaces, until such a time that Australia's first nations people have constitutional representation, a treaty and meaningful land rights. The *Aboriginal Flag* has, arguably, more power now than at any other point in its history to shape Australia's race relations. In identifying the flag's dormant potential, this final argument completes the narrative arc of this thesis, so that it ends where it started, exploring the *Aboriginal Flag*'s reading and power as activist art.

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The fact that this thesis is the first academic study of the *Aboriginal Flag* has meant that an important prerequisite has been to research and document the flag's history. It has also meant that the central contentions of the thesis – that the flag is art, that the flag is activist art, that the flag has brought about social change – have had to be formulated independently of an established body of literature. Concurrently, a number of other factors have also been determinant. Historically, non-Aboriginal people have dominated the literature and theory relating to Aboriginal art and Aboriginal history. International Western art theory and history relating to social and political art rarely considers the circumstances and histories of the cultural practice of Australian Aboriginal people. The role of art in Indigenous activism, despite being identified by Indigenous and non-Indigenous Australian scholars as being central to the meaning of Aboriginal art, has only a minor body of literature relating to its discussion. And, finally, a central argument of the thesis – that activist art brings about social change – is not an established way of thinking about art, or genre of art, in the art world. These factors, collectively, make for an unconventional literature review. Three key repositories of information/knowledge that do relate directly to the topic of the *Aboriginal Flag* are discussed. They are the interviews of Harold Thomas, Michael Anderson; and Nicole Watson, Djon Mundine and Maurice Ryan's panel discussion, which I either personally conducted or helped research; Brenda Croft's three essays discussing the *Aboriginal Flag*; and the University of New South Wales School of Sociology's 1982 first-year study and publication *The Burning of the Aboriginal Flag: A Study of Racism in Shoalhaven (NSW)*. The aforementioned interviews constitute over 25,000 words relating directly to the topic of the flag, and as such were a critical foundation of this research. They are reproduced as transcripts in the Appendix of this thesis. *Crux Australis*, a quarterly vexillological magazine produced by the Flag Society of Australia, has published articles on the *Aboriginal Flag* since 1984. Their 2009 panel interview with Thomas is quoted several times in the thesis. The remaining 280 or more individual research references listed in the thesis's bibliography encompass histories and arguments that circle and inform the topic of the flag, rather than, for the large part, comment on its subject directly. Finally, I document how my publication *Country, Spirit and Belonging, The Wiradjuri in Wellington Valley* (2013) shaped and influenced my research thinking and methodologies for this study.

In the second decade of the twenty-first century, non-Aboriginal academics continue to dominate Aboriginal art criticism. This reflects the complex statuses and dynamics of race relations in Australia, as well as the traditions, norms and demographics of each culture. It is estimated when Australia was colonised in 1788, its Indigenous population comprised between 300,000 and 1 million people, representing over 300 distinct Indigenous language groups or cultures, spread across the continent and surrounding islands. These diverse peoples shared a significant trait: knowledge was shared and maintained predominately via oral traditions. Through forced assimilation over many generations, Aboriginal people have come to adopt European academic traditions. Once the continent's dominant demographic group, Aboriginal people now make up just 2.5 per cent of the Australian population. The dominance, now receding, of Aboriginal art discourse by non-Aboriginal people, continues to be a form of intellectual colonisation. This argument is endorsed by artist, writer and activist Fiona Foley. She states in her publication *The Art of Politics, the Politics of Art: The Place Of Indigenous Contemporary Art* (2016) that the lack of 'real analysis' of, and 'engagement' with, the contribution Indigenous artists make to the political discourse of the nation reflects a 'new form of colonial power' (Foley, 2006 p. 25). An increasing number of non-Aboriginal citizens and academics are now partners in pursuing de-colonising discourse that have reshaped Australia's race relations. The celebrated Freedom Riders of 1965, were led by Indigenous Australian Charles Perkins, but most of the activists were non-Aboriginal university students (Curthoys, 2002). A more recent example is non-Indigenous historian Peter Read's coining of the term 'The Stolen Generations' (Read, 1981). This shaped and transformed the way Australians talk and think about Australia's history of race relations (Ginsburg and Myers, 2006 p.36). The oral tradition in traditional Aboriginal culture, the relatively small contemporary population of Aboriginal peoples and Western colonial agendas and vestiges all go some way towards explaining Indigenous people's relatively small representation in Western academia.

Representative of much Western literature on intercultural Aboriginal cultural practice, Vivien Johnson's essay 'When Papunya Painting Becomes Art' stresses the evolution and metamorphosis of Western interpretations of Papunya painting from ethnographic material to 'high art' (Johnson, 2007 p. 29). In other words, she emphasises the biases of Western readings of Aboriginal art to the exclusion of Aboriginal readings and meanings. In her essay, Johnson only briefly acknowledges



the potential political purpose of painting as ‘title deeds’ for the Papunya painters. Despite stating that ‘title deeds perfectly sums up’ the purpose and meaning of ‘mid to late 1970s Papunya painting’, she fails to explore and expand this reading and place it at the centre of the reader’s understanding of Papunya painting (Johnson, 2007 p. 32). Over the essay’s ten pages, just a few sentences are concerned with reading the works as ‘title deeds’. As in Ian McLean’s anthology *How Aborigines Invented the Idea of Contemporary Art*, Aboriginal art in Johnson’s essay is read in Western terms. Its significance and meaning as political statements by their Aboriginal authors is largely ignored, or at least not emphasised. This approach risks being another form of Western colonisation.

In their collaborative article ‘A History of Aboriginal Futures’, Faye Ginsburg and Fred Myers discuss the ‘political turn’ against Indigenous Australians during the Howard era (1996–2007) (Ginsburg and Myers, 2006 p. 27). Ginsburg’s area of research is media, culture and history, while Myers’s is anthropology. Both are American academics based at New York University. The article’s tone and arguments contrasts with some of Myers’s earlier public statements, quoted in Chapter 2, regarding Aboriginal art-making dating from the 1970s, when he was posted at Yayayi outstation as an anthropologist. In his earlier statements, Myers argued that the phenomenon of Aboriginal art was perceived by remote community artists as being ‘whitefella business’ (Myers, 2007 p. 43). In ‘A History of Aboriginal Futures’, the writers state that the sale and commissioning of remote communities’ works of art convey ‘value and political potential to the Indigenous project, and their objectifications have become loci of identification for the broader Australian community’. To illustrate this point, Ginsburg and Myers describe how Michael Nelson was able to use the threat of destroying his 1988 Bicentenary mosaic to protest changes to native title in 1993 (Ginsburg and Myers, 2006 p. 40). The commissioning of Nelson’s work thus gave him a national platform to address his political concerns. The article concludes, however, that the success and acceptance of Aboriginal art in Australian society was paradoxical during a period that saw the Aboriginal arts industry grow. ‘[T]he wider conditions of their lives remain poor, and in danger of further immiseration’ (Ginsburg and Myers, 2006 p. 36). Recognition of Aboriginal art, in their views, in the form of sales and commissions, is separate from meaningful political agency and power. Ginsburg and Myers’s arguments contrast with my research in that they fail to consider non-commercial works of Aboriginal art, such as

the *Yirrkala Church Panels*, the *Bark Petition*, the *Aboriginal Flag*, the *Ngurrara Canvas* and *Karlamilyi*, and the potential use of Aboriginal artefacts in Indigenous activism. In the first instance, these works serve the pressing political agendas of Indigenous Australians. Ginsburg and Myers, like many other commenters on Indigenous Australia art, do not take into account Indigenous cultural practice that operates outside Western art frameworks.

Like the *Aboriginal Flag* itself, the relationship between Indigenous art and politics does not have a wide body of literature. Exhaustive anthologies and reference books, such as *The Oxford Companion to Aboriginal Art and Culture* (Kleinert and Neale, 2000) and *How Aborigines Invented the Idea of Contemporary Art* (2011), have only small sections – a few short essays each – that cover this important relationship. This pertains despite both publications containing essays by Indigenous authors that stress the importance of Indigenous art's relationship to politics. Hetti Perkins and Victoria Lynn make a forceful point: 'The function of art as an agent for social change is embodied in all Aboriginal and Torres Strait Islander art. It is this collectively implied or stated position that is probably the only instance where a homogeneity of cultural expression can be suggested' (Perkins and Lynn, 1993 p. x). However, this argument comes in an article that is only two pages long and mainly deals with the labels 'traditional' and 'urban' (Perkins and Lynn, 1993 p. x-xii). The section titled 'Politics' in *How Aborigines Invented the Idea of Contemporary Art* is foregrounded by two 'reflective statements' on seminal essays written over 25 years ago by Anne-Marie Willis and Tony Fry ('Art as Ethnocide: The Case of Australia' and 'Aboriginal Art: Symptom or success', 1988–89). This editorial decision leaves the reader speculating over whether or not the editor believes anything of any significance has since been written on the subject in the intervening years.

Prominent Indigenous art critics include academics, anthropologists and curators such as Djon Mundine, Marcia Langton, Margo Neale and Hetti Perkins. These Aboriginal theorists and critics have been instrumental in shifting the discourse away from modern and postmodern readings of Aboriginal art towards a focus on the work's 'indigeneity' (McLean, 2011 p. 61). They have not, however, discussed the *Aboriginal Flag* as a primary topic in long-form essays or articles. In light of this deficit, the interviews with Thomas, Anderson and the panel discussion between Watson, Mundine and Ryan included in the appendix, Croft's essays, and *The*

*Burning of the Aboriginal Flag: A Study of Racism in Shoalhaven* played a critical role in setting the historical and theoretical parameters of this thesis.

Thomas, Anderson, Watson, Mundine and Ryan's transcripts related to the topic of the *Aboriginal Flag*. I interviewed Anderson, Korrie Radio presenter Lola Forester, interviewed Thomas, Watson, Mundine and Ryan with my research assistance. These interviews document much of the flag's history for the first time, and they contain many key statements upon which the arguments of this thesis are based. Thomas categorically states that he conceives the *Aboriginal Flag* to be art. Anderson asserts one of the central ideas of the thesis: that the products of Aboriginal culture have the potential to act as title deeds to land. Watson, Mundine and Ryan discuss issues relating to the flag's ownership. These interviews, however, constitute a series of insightful statements, rather than long-form critical or academic analysis.

The most sustained analysis of the *Aboriginal Flag* is by Brenda Croft. In the following articles/government records, she discusses the *Aboriginal Flag* and makes a number of repeated claims: 'Revolutionize me (and you, and you, and you)' (2012), 'Eora Journey International Review: International Review of Contemporary Interpretation Practice' (2010) and 'The intervention: an anthology' (2015). Croft states that the flag is of great significance, that the flag is a successful work of public art (by inference the flag is a work of art) and that the flag is a significant work of activist art. However, these articles are all relatively short (just a few hundred words each, or consist of quoted statements within articles), and they are concerned principally with other topics (public art, the intervention, the history of Aboriginal activism). Croft writes:

I already considered the Aboriginal Flag to be the most successful piece of public art ever created in Australia – John's [Croft's activist nephew] actions convinced me of this position. Art as cultural activism, no matter how small the steps may seem at the time, compounds, widening and strengthening the pathways we all travel in our countries and traditional lands.

(Croft, 2012)<sup>1</sup>

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<sup>1</sup> I was unable to view the published article, Revolutionize me (and you, and you, and you) published in the exhibition catalogue *Decolonize me*. Croft kindly forwarded me her draft copy of the essay. Hence the absence of a page number in the citation.

Croft's claims, though significant and fully supported by the findings of this study, are not substantiated by long-form arguments that locate her claims within histories and theories relating to Aboriginal art, political and social art or to Indigenous practice.

*The Burning of the Aboriginal Flag: A Study of Racism in Shoalhaven* (1982) is the only academic study of the *Aboriginal Flag* on which this thesis has been able to draw. That study, by a student group led by Dr Alex Kondos, involved an extensive 'systematic stratified random sampling' survey in which 10 per cent of the Shoalhaven and Nowra community were sent a one-page questionnaire containing six questions and four demographic questions. The 'scientific' methodology of the survey offers a relatively objective, historic record of community attitudes towards the flag and Indigenous affairs in New South Wales during the early 1980s. In the early 1970s and 1980s, the key platform for Indigenous activism was land rights. The symbolic focus of that contest in Nowra was the *Aboriginal Flag*. *The Burning of the Aboriginal Flag* is a sociological study of racism – by default, it provides insight into Indigenous peoples' struggle for land rights at a critical juncture in the history of Indigenous activism.

Part of the basis for this study was my earlier research project 'Wellington', completed over a three-year period (2010–13). It culminated in a number of interpretative works of art, and a 50,000-word publication titled *Country, Spirit and Belonging: The Wiradjuri in Wellington Valley* (2012). The project's focus was the history and community of Wellington, a small town located in that part of central New South Wales that is home to the Wiradjuri people. Ernest Moulton, my maternal grandfather, a British migrant, settled in Wellington in 1944. He purchased the local paper, the *Wellington Times*, and as its editor was a prominent conservative voice in the community for the next 21 years. The study represents an intimate history of Wellington's race relations, the processes of colonisation and the community's tentative steps towards reconciliation, highlighting some of the complexities of cross-cultural engagement as well as issues of censorship and selective historicising in the *Wellington Times* between 1944 and 1965. The publication involved interviewing close to 100 Aboriginal people living in Wellington, researching their histories, seeking to understand their experience and, most importantly, establishing sustained interpersonal relationships with them.

Before engaging the Aboriginal community in Wellington, statements such as ‘assimilation is genocide’ (Anderson, 2014 p. 15, Foley, 2014b), stood as distant abstractions that reflected the still significant cultural and social divisions in understanding and knowledge – between Indigenous and non-Indigenous Australians – in Australian society. Key to bridging those histories was the ambassadorship of senior Wiradjuri Elder (Aunty) Joyce Williams. Joyce as friend, mentor and project partner communicated the fuller meaning of myriad issues to the wider community, as recorded in *Country, Spirit and Belonging: The Wiradjuri in Wellington Valley*.

In Joyce’s youth, the laws and culture of assimilation were inherently contradictory: they were both segregationist and assimilatory. A thousand quiet gestures and actions sustained an informal and formal system of racial apartheid in Wellington well up to the mid-1960s. In the face of Indigenous marginalisation and poverty, the dominant white community in Wellington was on the whole passive and silent about Indigenous issues (Gallois, 2012 p. 23). Within that silence, the effects of land dispossession, poverty and discrimination took the lives of Joyce’s four older siblings who all died – out of sight, out of mind – on Nanima mission before they reached 12 years of age. Under that strain, Joyce’s parents separated when she was six years old and she was sent to live with her grandmother. As described by Mahatma Gandhi, poverty is the worst kind of violence.

Asked to identify who was the first Aboriginal person to own land post-colonisation in this region, Joyce stated ‘They stole our land and now we have to buy it back’. In 1957 Albert Theodore May, after a long and bitter community debate in the *Wellington Times*, was allowed to take a loan and buy a small suburban house in Wellington (Gallois, 2012 p. 31). He was the first black person to cross the race divide and move from one of the many informal Aboriginal camps around Wellington, into the town main. To repossess his land, Theodore May had to demonstrate, at least on the surface, his willingness to act white, to assimilate. His mortgage payments – as articulated by Joyce – equated to a fortnightly humiliation. The premise of Wellington colonisation, the related denial and destruction of Wiradjuri culture and the cultures of assimilation are still in place and active in that community to this day (Gallois and Macdonald, 2012 pp. 10-16). As documented in this thesis, in Wellington, Aboriginal people represent 20 per cent of the local population, but own less than 1 per cent of the total 1,016,000 acres of land that makes up the local government area (Gallois, 2012 p. 27).

The Wellington project influenced this study's focus in profound ways. It resulted in this study's focus on Aboriginal art's political and social contexts', rather than its Western art related conditions and readings. Of this thesis' eight Chapters, only the first two relate to the flag's broad art contexts and readings. This position contrasts to Ian McLean's anthology *How Aborigines Invented the Idea of Contemporary Art* and many other books and articles on Aboriginal art (Caruana, 2012, Johnson, 2007, Fisher, 2016). McLean introduces his anthology thus:

Issues addressed are typical of most writings on fine art ... there is little discussion of such vexed issues as the contradictions between the beauty of the art and the often appalling conditions in which it was made.

(McLean, 2011 p. 13)

In a broader sense, the limited literature that this thesis has had to contend with is expressive and systematic of alienated relations. As stated by Langton in her 1994 essay 'Aboriginal Art and Film: The Politics of Representation' (Langton, 1994 p. 99), and echoed in meaning by Indigenous journalist Stan Grant in his biography published over 20 years later in 2016 (Grant, 2016 p. 4): 'Australians do not know and relate to Aboriginal people'. Langton asserts that although racial discrimination is a big problem in Australia, it is not 'the central problem' or hurdle for improved race relations. Rather, what is most at stake is 'the need to develop a body of knowledge and critical perspective to do with aesthetics and politics, whether written by Aboriginal or non-Aboriginal people' (Langton, 1994 p. 96). To these statements we should perhaps add the provisos that Australians do not know or understand Aboriginal culture, and that the *Aboriginal Flag's* non-status as art reflects a poor understanding of the role of culture in Indigenous activism.

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This thesis is divided into four parts. Part A explores the *Aboriginal Flag* as art and activist art. Part B contextualises the flag's genesis, history and political contexts as they relate to the Tent Embassy, land rights, sovereignty and assimilation. Part C documents the history of the *Aboriginal Flag* as a catalyst for social change. Part D appraises the *Aboriginal Flag's* contemporary meanings and demonstrates how, by

inference, they form an evaluation – as viewed through the prism of the *Aboriginal Flag* – of contemporary Australian race relations.

Chapter 1, ‘The *Aboriginal Flag* as a work of art’, explores Harold Thomas’s life, Aboriginal cultural practice, and how Western art practice and theory frame and inform the *Aboriginal Flag* as art. Sitting at the intersection of two cultures and two mediums, the flag has a complicated and idiosyncratic reading. It shares few characteristics and meanings with other flags, works of art, and ‘flag-works-of-art’. The chapter concludes with a formal exploration that substantiates the argument that the design of the *Aboriginal Flag* represents the drawn-out considered process of a serious artist.

Chapter 2, ‘The *Aboriginal Flag* as activist art’, establishes the parameters and asserts the rationale for understanding the *Aboriginal Flag* as activist art. Particular attention is given to the role of art in Indigenous activism, as it exists within a contested colonial context. The latter serves the added purpose of firmly framing the *Aboriginal Flag* as characteristic of Indigenous cultural practice. Richard Bell’s social and political practice reveals the difference between social and political art and activist art. The *Aboriginal Flag* and Bell’s work *Pay the rent* share land rights themes; however, a great gulf separates the efficacy of these works as activism. The chapter reveals that Western ways of understanding activist art collapse before Indigenous works of art that, in the first instance, serve the political agendas of Indigenous Australians. In these Indigenous works, art and politics fold in on themselves and become one and the same entity. This pivotal chapter of the thesis discloses a broader idea: the role of art in Indigenous activism.

Part B contextualises the genesis, history and political contexts of the *Aboriginal Flag* as they relate to the Tent Embassy, land rights, sovereignty and assimilation. The three chapters in this section deepen the reader’s understanding of Australian race relations and of the flag’s place in that history. Chapter 3, ‘The international Black Power movement and the Aboriginal Flag’, begins with an account of how, at the Tent Embassy, three flags were flown, each of which articulated quite different interpretations and visions of the Aboriginal cause. The genealogies of these flags locate the *Aboriginal Flag*, and more broadly Indigenous activism, within the international Black Power movement and affirm that Australian Indigenous activism did not emerge in isolation – rather it was responsive to, and influenced by, international social and political movements that recast the politics of

race relations the world over in the twentieth century. The selection of Thomas's version of the Aboriginal flag as the pan-Aboriginal flag of Australia reveals much about the premises, values and goals of Indigenous activism, and the scope and limitations of the influence of the international Black Power movement on Aboriginal activism in the early 1970s. Chapter 4, 'Land rights, *terra nullius* and sovereignty', explores the doctrine of *terra nullius* as a profoundly important determining factor for Australian race relations. Conversely, the *Aboriginal Flag* is described in terms of its being a powerful counter-argument against the forces and premises of colonisation. This chapter explores the contrasting meanings of sovereignty as it relates to, and is expressed by, Aboriginal and non-Aboriginal Australians. Finally, Chapter 5, 'The interpersonal context and form of the *Aboriginal Flag*'s activism', explores how the policies of assimilation have dominated the culture of Australian race relations for much of Australia's history. For Thomas, the creation of the *Aboriginal Flag* was a personal act of defiance against the cultures and policies of assimilation that had so radically shaped his life. Thus contextualised, the display of the *Aboriginal Flag* has both public uses and meanings, and very personal meanings for Indigenous individuals.

In Part C, Chapter 6, 'Social change and the *Aboriginal Flag*', documents how the *Aboriginal Flag* has brought about social change. As was the case in most local government areas in the early 1980s, the *Aboriginal Flag* was not flown in the shared public domain in Shoalhaven. A statewide campaign in 1982 that sought to add political momentum to the campaign for what became the *Aboriginal Land Rights Act (NSW) 1983*, encouraged the state's then 177 councils to fly the *Aboriginal Flag* for a single day on National Aborigines Day. In response, the Shoalhaven mayor infamously burnt the *Aboriginal Flag*, claiming it represented a threat to social unity. A significant proportion of non-Aboriginal, land-owning Shoalhaven residents who perceived the proposed 1983 Land Rights Act and, by association, the flying of the *Aboriginal Flag*, as a threat to their land titles – supported the mayor's actions. These events are contrasted with Cathy Freeman's flag activism at the 1994 Commonwealth Games.

Part C, comprising the final two chapters of the thesis, offers an appraisal of the *Aboriginal Flag*'s contemporary meanings and, by inference, they form an appraisal – as viewed through the prism of the *Aboriginal Flag* – of contemporary Australian race relations. Chapter 7, 'Culturally modified trees and the *Aboriginal*



*Flag*', constitutes a comparative study of the meanings and statuses of dendroglyphs and the *Aboriginal Flag* in central and northern New South Wales. Central to this chapter's argument is Anderson's assertion that Aboriginal artefacts constitute title deeds to land. Finally, Chapter 8 asks the complex and revealing question 'Who owns the *Aboriginal Flag*?' In so doing, it reveals that only Thomas – as copyright owner of the flag – has the power to wrest back the *Aboriginal Flag* from the Australian government, which has commandeered its meanings since the mid-1990s.

## 1

**The *Aboriginal Flag* as a work of art**

The assertion that the *Aboriginal Flag* is a work of art is based on three premises: Harold Thomas's biography, Aboriginal cultural practice and Western art practice and theory. Together these conditions and criteria frame and inform the *Aboriginal Flag* as art, and ensure that the artist's life and philosophy are central to the reader's understanding of it. Aboriginal cultural practice frames an understanding the *Aboriginal Flag* as a work of Aboriginal art. Western art theory, in the form of the institutional definition of art, is described and drawn upon to frame and substantiate an emerging consensus among art professionals that the flag is indeed art. Sitting as it does at the intersection of two cultures and two mediums, the *Aboriginal Flag* has a complicated and idiosyncratic semiotic reading. The few similarities, and the many characteristics and meanings the *Aboriginal Flag* does not share with other flags, works of art and flags considered as works of art, are explored. The chapter concludes with a formal exploration of the *Aboriginal Flag* that substantiates the claim that its design represents the drawn-out, considered process of a serious artist.

**Genesis and readings**

Thomas describes the creation of the flag as having been both protracted and instantaneous. The need for a symbol of Aboriginal identity was sown in Thomas' mind after attending his first Aboriginal demonstration in 1970, an occasion on which white supporters outnumbered the barely visible Aboriginal activists (Thomas, 2002). At some point the image of the *Aboriginal Flag*, and its complex meanings, came to him fully resolved in a formidable moment of creative inspiration.<sup>2</sup> Over the next few days or weeks Thomas engaged in a thorough, circular process familiar to many artists. He got to know his creation. He thought about its symbolic meanings. He tried to evaluate its design objectively, and he experimented with possible variations. At one point, the living room of his family home in Adelaide was transformed into a makeshift artist's studio. Studies of the flag covered the table and floor. The flag's design was turned inside out and back to front. It had only one possible manifestation,

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<sup>2</sup> As described in an informal unrecorded conversation with the author on 17 February 2016.

its first. With the design accepted as true and resolved as a prototype by the artist, Thomas went to the haberdashery Harris Scarfe located in Rundle Place Shopping Centre, Adelaide, to purchase fabric. He sought a red ochre-coloured fabric, but the limited colours available led to the use of red in his design (Thomas, 2009 p. 42). Thomas then engaged Mandra Lee Hanson, a colleague at the Australian Museum, to sew the fabric into a large flag.

Days later, the *Aboriginal Flag* was first flown on National Aborigines Day Observance Committee day (NADOC) at Victoria Square in Adelaide on 12 July 1971. That first *Aboriginal Flag* is lost. It is not known whether its exact proportions and colours were those of the now-familiar flag. Off-cuts of fabric found at the Australian Museum in 2014, which are most probably off-cuts of the original flag, suggest that it was not symmetrical (Martin, 2014). The *Aboriginal Flag* consists of a rectangle divided horizontally in half by a black top and red bottom, and punctuated by a yellow ochre circle symbolising a sun. The flag's colours are Black, Red PANTONE® 179, and Yellow PANTONE® 123. Its proportions are even and constitute six equal parts. Its height is twice the circle's diameter, and its width is three times that diameter (Figure 1.1). In his public statements over many decades, Thomas has been unwavering in stating that his creation is a work of art (Thomas, 2015).



Figure 1.1: Harold Thomas. The *Aboriginal Flag*. 1971

The *Aboriginal Flag* reading sets it apart from other flags and works of art. It represents Indigenous Australians as the pan-Aboriginal flag, but it is not a nationalistic flag that claims the nation of Australia for them. Rather, it is the flag and symbol of displaced people. In this sense, the *Aboriginal Flag* has a different reading and purpose to most nation-state flags, such as the Australian flag. The *Aboriginal Flag*'s reading is also different from that of the West Papuan flag (Figure 1.2), which is also the flag of a displaced Indigenous people but which does claim West Papua for Indigenous West Papuans. The *Aboriginal Flag* is best understood as a flag of identity, political activist agendas, and ideals such as land rights and sovereignty. In this sense, the *Aboriginal Flag* has much in common with the Eureka flag and Peace/Gay Pride flag, as they are all flags that affirm identities and political agendas or ideals (Figures 1.3 & 1.4). The national Māori flag and the Torres Strait Islander flag, both of which were inspired by the *Aboriginal Flag*, are perhaps the ones with which the *Aboriginal Flag* shares the greatest number of themes, agendas and historical contexts (Figures 1.5 & 1.6). Māori activist Te Kawariki, who was instrumental in the development of a Māori flag, views it as 'a symbol of our struggle for Māori independence' (Government, 2015). Neither Māori nor Torres Strait Islander people claim, however, that their flags are works of art. The *Aboriginal Flag*'s semiotic reading does not relate to Jasper Jones's *Flag* or myriad other works of art that depict flags. Jones's work is a painting of an existing flag, the flag of the United States of America; as such, it has a very different cultural context (fine art as opposed to activist art), historical context (New York, 1954–55) and cultural reading (American imperialism and the American flag as icon) (Figure 1.7). Other more recent 'art' flags, such as Australian Indigenous artist Archie Moore's many flag works of art, are not ones adopted by people; hence, they too are in a separate category of art flags (Figure 1.8). Seeking to understand the *Aboriginal Flag* as flag design that is a work of Western art, or within a Western vexillological tradition, has many limitations.



Figure 1.2: An image of The Morning Star flag at a demonstration in Melbourne. The Morning Star flag was designed in 1961 by Markus Wonggor Kaisiepo. Date and photographer unknown.



Figure 1.3: Charles Doudiet. *Swearing allegiance to the Southern Cross*. 1854. Water colour, pen. Dimension unknown.





Figure 1.4: Large and small Gay Pride flags at a Gay Pride demonstration. Date and photographer unknown.



Figure 1.5: Hiraina Marsden, Jan Smith and Linda Munn. The Māori flag. 1990.

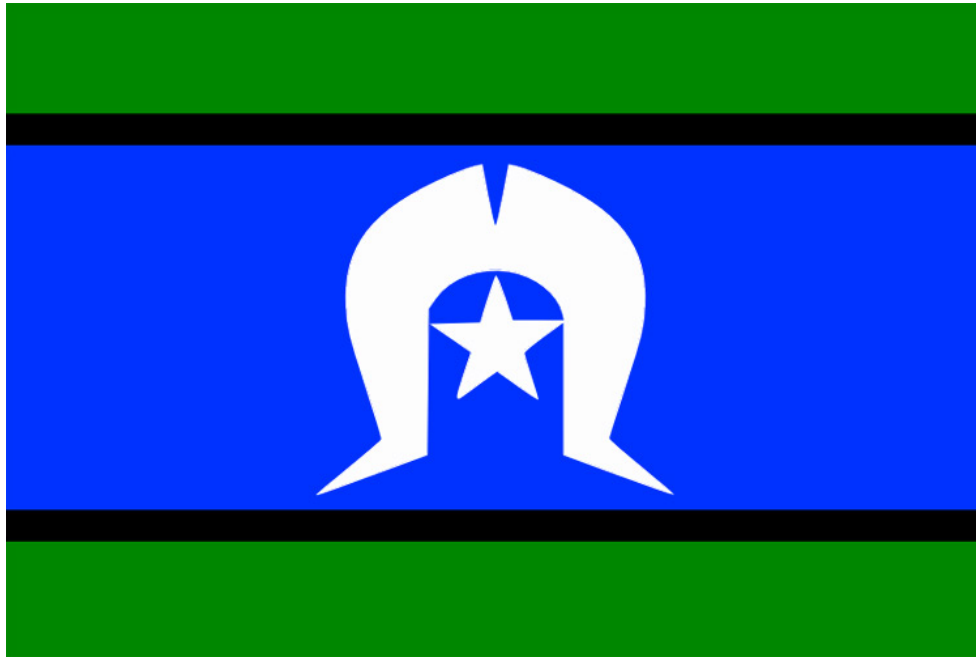


Figure 1.6: Bernard Namok. Torres Strait Islander flag. 1992.

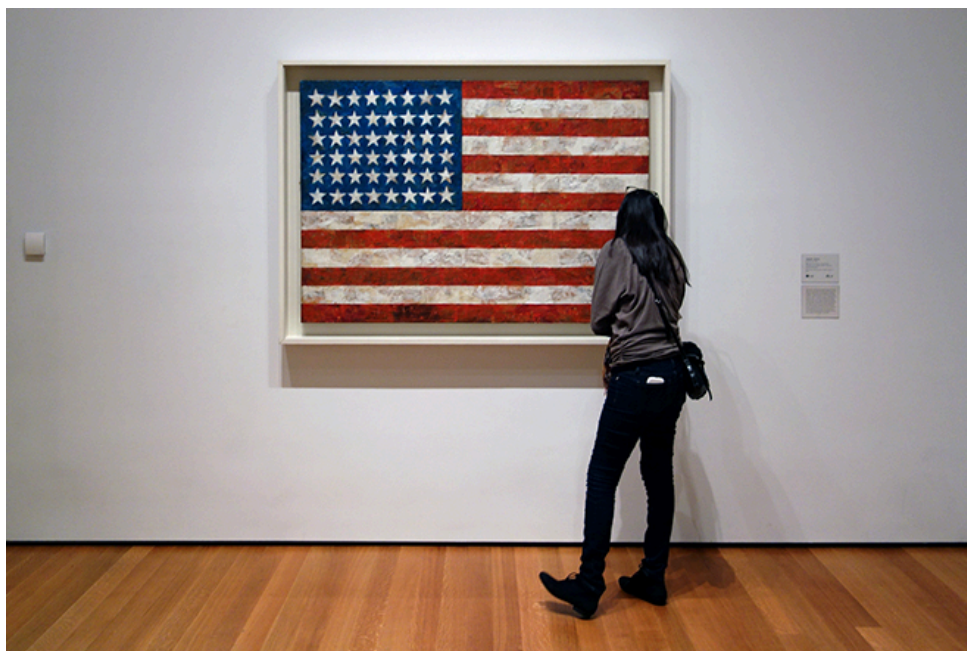


Figure 1.7: Image of a person viewing Jasper Jones' Flag. Jasper Jones' Flag. 1954–55. Encaustic, oil, and collage on fabric mounted on plywood, 107 x 154 cm. Date and photographer unknown.



Figure 1.8: An installation view of Archie Moore's artwork *14 Queensland Nations*. Archie Moore. *14 Queensland Nations*. 2014. Fabric, dimensions variable. Date, place and photographer unknown.

The *Aboriginal Flag* is rarely understood as a work of art. Its status as art has been confused by its frequent appropriation by a very large number of Aboriginal and non-Aboriginal artists. Indeed, it has come to be perhaps one of the most appropriated works of art in Australian culture, rivalled only by Sidney Nolan's *Ned Kelly* (1946). In 1994 the Sydney-based Boomalli Aboriginal Artist Co-operative curated a major exhibition and publication based on that very premise entitled *True Colours: Aboriginal and Torres Strait Islander Artists Raise the Flag*. The exhibition's Aboriginal curators were Hetti Perkins and Brenda Croft, then aged 22 and 20 respectively. At the time, they and the members of the co-operative chose not to recognise the *Aboriginal Flag* as a work of art in its own right.

Croft's conceptualisation of the *Aboriginal Flag* would evolve over the next 15 years. In 2010, the Sydney City Council, as part of the Eora Journey review – Perkins was the review's curatorial advisor – asked Croft to identify what she considered to be



a successful public work of art. Croft, who had become in the ensuing years, an Indigenous academic, activist and artist, nominated the *Aboriginal Flag* (Perkins et al., 2010). In 2012 she wrote the essay ‘Revolutionize me (and you, and you, and you)’ for the exhibition *Decolonize Me* (exhibited at Ottawa Art Gallery and The Robert McLaughlin Gallery in Montreal, QC). Croft chronicled Australian and international Indigenous activism and discussed the *Aboriginal Flag* as both a work of art and as a work of activism. Croft argues that in the face of many traditional political platforms being ‘dismantled, devolved, erased’, one of the few ‘avenues available to Indigenous people by which to make their/our concerns known is arts and cultural activism’ (Croft, 2012)<sup>3</sup>. Aboriginal cultural practice, in the form of dance, theatre, visual arts or music, has established funding structures, captive audiences and stages that are often used by Aboriginal artists as a platform for their political concerns. Key examples include The Aboriginal Memorial (1987–88), Yothu Yindi’s 1991 song ‘Treaty’ and, of course, the *Aboriginal Flag* (Gallois, 2016). Apart from the people I have interviewed as part of my research for this thesis, Croft is, to my knowledge, the only person who has either spoken or written about the *Aboriginal Flag* as both a work of art and a work of activism.<sup>4</sup>

### **‘The flag is me’<sup>5</sup>**

Thomas is a Stolen Generations Aboriginal person. Before being taken from his family, Thomas lived with his extended Luritja/Wombai family in an area called ‘The Cottages’. This was the ‘suburb’ of Alice Springs where ‘half cast’ Aborigines, as they were then referred to, lived. ‘Bush people’ inhabited the mission and stations; white people lived in the main town: Alice Springs. At six, in 1953 Thomas was moved 1,500 kilometres away to Adelaide. Thomas was only to see his mother once again in his life. Between then and 1958, when he turned 12, Thomas lived with other ‘half cast’ Aboriginal boys at St Francis House, a ‘home’ for boys from the Northern Territory located in a coastal suburb of Adelaide called Semaphore.<sup>6</sup> At the age of 12,

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<sup>3</sup> I was unable to view the published article, Revolutionize me (and you, and you, and you) published in the exhibition catalogue *Decolonize me*. Croft kindly forwarded me her draft copy of the essay. Hence the absence of a page number in the citation.

<sup>4</sup> Michael Anderson also affirms that the *Aboriginal Flag* is art (Anderson, 2014 p. 2).

<sup>5</sup> In an informal unrecorded conversation on 17 February 2016 with the author, Harold Thomas stated ‘the flag is me’.

<sup>6</sup> Activist Charles Perkins is an alumnus of St Francis House. ((Contributed), 1951)

he was fostered to a white family, that of the Reverend Donald Wallace, rector at St John's church in Adelaide, and his wife, Gwen (Ward, 2016). Thomas was sent to Willunga High School, then Pulteney Grammar School in Adelaide (Kwan, 2006 p.121). In 1965, Thomas received a scholarship to study at the South Australian School of Art. For him, art school represented community and freedom from the racialised thinking and institutions that had so dramatically shaped the first decades of his life: 'I made a decision about going to art school, because, I thought, "At least I won't be on my own, I won't have non-Aboriginals telling me what to do"' (Thomas, 2002). Arts school, despite being another 'white' institution, offered Thomas a degree of freedom and autonomy.

The last time Thomas saw his mother was when he was 11 years old. St Francis House had a policy of intermittently sending the boys back to their families over the summer holidays. This happened only once for Thomas, who visited his family on a cattle station called 'Denippa' in the Northern Territory where Thomas's father was the manager. After the death of his mother in 1965, Thomas found out where his father was living and visited him once in 1968. Father and son found themselves to be estranged (Sheppard, 1997). Later in life Thomas became an active spokesperson for the Stolen Generations. His parents, and his 16 brothers and sisters, are all Stolen Generations Aboriginal people.

In a 2002 radio interview for the ABC program *Dimensions in Time*, Thomas reflected on the social changes of the 1960s and 1970s, on his job at the Adelaide Museum and on the sequence of events which had led to his designing the *Aboriginal Flag*. He explains that:

it was a great experience, because it was during the '60s, and during the period of change for a lot of young people throughout the world ... I applied for a job at the South Australian Museum, where I became the first Aboriginal to be employed in a museum in Australia. I was with the biggest collection of Aboriginal art – artefact in the world, and I had virtually free access to it. So I gleaned over every artefact, every design. I sort of went back into it and felt, 'There's something powerful and strong here that should be expressed.'

In the same interview Thomas discussed the *Aboriginal Flag* in terms of Indigenous pride and identity:

And over that period of time, I was thinking more about identity, about who we were. And that's why the Aboriginal Flag was there. To say to people, 'I've got a symbol that represents me and who I am, whether I live in Redfern or Adelaide or Perth, I'm proud of it'. I was working in close association with activist Gary Foley. We were working on medical and legal services, and I thought we needed a symbol to get our message across. So I came up with the idea of a flag.

Thomas goes on to describes the flag's choice of colours and symbolism in the following way:

so it went on from there -- it was a sequence of events which led to me being the designer of the *Aboriginal Flag*. When I look carefully at what the *Aboriginal Flag* looks like, it comes from the simplicity and power of Aboriginal art itself. Simple colour, choice of colour, and a simple design. It's powerful, and the colours are important. And it took some time to think about it – Red ochre, the red soil – the country of Australia is all red. Why I chose the sun? Because it's another colour that is used commonly in Aboriginal art – yellow ochre. But the sun is a great symbol for all people. When we look carefully at the colour black, which is an interesting one, it's more of a political inclusion, rather than a spiritual, Aboriginal concept. The black represents the pride of being black in Australia. Because, at the time, black pride came into Australian culture – during the '60s and '70s – influenced by Black American pride of their culture. If this is going to be an *Aboriginal Flag*, it has to have black, because it represents the black people of the continent.<sup>7</sup>

(Thomas, 2002)

It is instructive to pause and consider one fortuitous aspect of Thomas life, his birthplace. Alice Springs is a small city at the symbolic heart and geographical centre

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<sup>7</sup> Thomas chose his colours wisely. The flag's three colours, red, black and yellow ochre, would come to transcend the flag and come to represent the colours of Aboriginal Australia, a feat that eludes the Australian flag (Australian sportspeople are invariably dressed in drab green and gold, the colours of Australia's national floral emblem, the wattle).

of the Australian continent. A glance at any map or satellite image of Australia reveals that the landscape is dominated by the deserts that cover 70 per cent of the continent: deserts such as the Great Victoria Desert, Great Sandy Desert, Tanami Desert, Simpson Desert and Gibson Desert, some of which are larger than countries as large as Italy. Luritja people are part of the Western Desert language group that traverses several central Australian deserts. Throughout much of this sparsely populated country, the sandy earth is indeed the vibrant red symbolised in the *Aboriginal Flag*. Thomas's statement that 'Red ochre, the red soil -- the country of Australia is all red' does not apply to where most Australians live, along the continent's coastal regions where the soil is one of many shades or combinations of brown, black, red and yellow. However, by fortuitous coincidence for Thomas, and for admirers of the *Aboriginal Flag*, the idea and myth of the outback and its red centre as the spiritual and mythological heart of Australia resonates powerfully for both non-Aboriginal and Aboriginal Australians. It was in the centre that Prime Minister Gough Whitlam poured the red earth into Vincent Lingiari's hand in 1975, symbolically transforming Australia's race relations (Figure 1.9). By coincidence or design, the composition of the *Aboriginal Flag* mirrors some images of Uluru, a geographical icon of Australia (1946) (Figure 1.10). These associations, sentiments and histories have shaped modern Australian mythology and self-identity as a nation, and they permeate and enrich our conscious and unconscious semantic understanding of the *Aboriginal Flag*.



Figure 1.9: Mervyn Bishop. *Prime Minister Gough Whitlam pours soil into the hands of traditional land owner Vincent Lingiari, Northern Territory.*<sup>8</sup> 1975. C type photograph.

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<sup>8</sup> A defining moment of Australian race relations: the Red Earth is poured into the hands of traditional land owner Vincent Lingiari, in the Northern Territory as part of a ceremony that saw traditional lands being handed back to Aboriginal people. After the gesture, Vincent Lingiari stated 'we are all mates now' and then spoke to his own people, in their language. He stressed through references to ceremony, the importance of the event. Gough Whitlam later revealed that his speech and the idea of pouring earth into Lingiari's hands came from Dr H. C. ('Nugget') Coombs.



Figure 1.10: Chips Mackinolty. Commemorating the hand back of Uluru to Traditional Owners. 1985. A colour print on paper, 111 x 62 cm.<sup>9</sup>

<sup>9</sup> A colour print on paper featuring a yellow representation of Uluru on a red and black background, similar in design to the Australian Aboriginal Flag. The top section of the print is black with white text 'NYUNTU ANANGU MARUKU / NGURANGKA NGARANYI / You Are On Aboriginal Land'. The lower section is red with yellow text 'KULINTJAKU ULURUNYA PANYA MALAKUNGKU / NGURA WALYTJA PITI UNGKUNTJA 1985-ANGKA / Commemorating the Hand Back of / Ayers Rock to Traditional Owners, 1985'. Underneath the print handwritten in black ink is 'Commemorative limited edition endorsed by a group of Traditional owners of Uluru', and in pencil 'JALAK/REDBACK "85" 18/44', and in blue ink are signatures of traditional owners of Uluru. On the reverse is a silver sticker with the ADC asset number '1 1770' and a yellow framing sticker from 'GREEN DOOR'. The print is under glass and has a black wooden frame. Object number: 2007.0053.0960.

## Aboriginal cultural practice

Some aspects of traditional Aboriginal culture are unknowable to non-initiated persons. This condition represents a significant barrier to its deeper understanding. Eurocentric perspectives and biases further hinder or distort people's ability to read traditional Aboriginal art.

Early Western judgements of Aboriginal art reflected their colonial contexts and agendas, and the vestiges of those early relations are still at play to this day. Aboriginal art was judged by non-Aboriginal people to be ethnographic material; it was then framed as Primitive art, until it was 'discovered' to be 'contemporary' art, progressively, over the twentieth century (Langton, 2000) (Mundine et al., 2000) (McLean, 2011). Europeans have somewhat reluctantly come to acknowledge that no single tradition of art – in particular, their own – has any special rights or knowledge that affords it status as exemplar (Morphy, 1998 p. 17). These Eurocentric biases represent a strong, persistent characteristic of Western thinking that continues to find expression into the twenty-first century – despite its frequent deconstruction. These biases explain the continued, insistent reading of the *Aboriginal Flag* solely as a Western flag, and Vivien Johnson's and Ian McLean's books on Aboriginal art that predominately frame Indigenous cultural practice in Western terms (Johnson, 2007) (McLean, 2011).

As identified by Peter Sutton, the Dreaming is a belief system: 'While Aboriginal people may believe in the reality of the Dreaming ... most others do not [non-Aboriginal people]' (Sutton, 1988 p. 49). Tony Fry and Anne-Marie Willis expand on the implications of this argument: 'For non-Aboriginals, the spiritual can never fully operate as part of the work's meaning, because that would require a sharing of belief systems between producers, critics and viewers' (Fry and Willis, 1989 p.114). Furthermore, only those who are initiated have access to its significant and sacred knowledges (Perkins, 2007, Caruana, 2012, Morphy, 1998). This is an aspect of Aboriginal culture that both Indigenous historian Marcia Langton and Indigenous curator/writer Franchesca Cubillo explore in their contributions to *The Oxford Companion to Aboriginal Art and Culture* (Cubillo, 2000 p. 28). There are two fields of Aboriginal knowledge: 'the inner and the outer, or the secret-sacred and the mundane' (Langton, 2000 p. 23). This line of secrecy is constantly drawn,

according to Peter Sutton. When he asked David Malangi about the significance of a motif in his painting *Sacred Places at Mimindjarr*, the artist replied succinctly and emphatically: ‘I know. You don’t know’ (Sutton, 1988 p. 53). While this dichotomy is not ‘absolute and distinct’, according to Langton, tight regulation of sacred knowledge is a powerfully determinate characteristic of Aboriginal culture (Langton, 2000 p.23). Cubillo both explores and describes the culture of secrecy in Aboriginal society:

Power, authority, status, and prestige are established in the telling and retelling of the ancestral stories. The identity of the narrator, the composition of the audience, the context, and the locality in which the myth is told – all these are factors that affect the extent and variety of information that is revealed.

(Cubillo, 2000 p. 29)

The secret and sacred status of some aspects Aboriginal culture stands in contrast to Christian religion and laws that are publicly documented in the Bible. The traditional structures of power that Cubillo describes determine and regulate the sharing of cultural knowledge and clearly transcend internal discourses among Aboriginal peoples. They are a significant aspect of colonial, Aboriginal–non-Aboriginal power relations as well. Malangi’s statement makes this point entirely clear. Aboriginal people restrict knowledge to non-Aboriginal people as a means of asserting power and control over their culture. In a strict sense, traditional sacred–secret Indigenous art and its knowledges is off limits to non-Aboriginal people. It is literally unknowable. Through land dispossession and processes of colonisation that ‘smashed the traditional way of life’,<sup>10</sup> followed by decades of formal and informal policies of social and cultural assimilation, many contemporary Indigenous people have lost entry to the secret knowledges of their forebears. Aboriginal people with secret and sacred knowledge speak about their practices in very different ways from those whose songlines and Dreamings have been ruptured. Arnhem Land artist John Mawurndjil describes his art-making process in the following way:

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<sup>10</sup> Excerpt from Prime Minister Paul Keating’s speech at the launch of Australia’s celebration of the 1993 International Year of the World’s Indigenous Peoples, Redfern Park, 10 December 1992 (Keating, 1993).



I painted her, small painting of Ngalyod [Rainbow Serpent], at the start. I continued [painting] and, you know, my thinking. I had a dream about bark painting that made me want to go and cut the barks very large. So I went and cut a large bark. It was enormous, and I did rarrk [a distinctive pattern consisting of cross hatched lines] on it. It was a success! The Ngalyod that I paint ... she has waterlilies growing out of her body. That Ngalyod placed herself into that site [Milmilngkan]. Absolutely no one is allowed to interfere with that place, no! We can only depict her with rarrk. At Milmilngkan I look after it. I look after Ngalyod, but no one can approach her. Only people of Yirridjdja moiety can go for that place.

(Perkins, 2007 p. 93)

These words constitute just one paragraph in a 4,000-word monologue that is at times obscure to a non-Yolngu person such as myself. In his statement, Mawurndjul reveals aspects of his traditional art-making process; however, his words also illustrate the great cultural divisions between his and Thomas's practice, and more broadly the great cultural divisions between Western art and Indigenous Australian art. Clearly, Thomas and Mawurndjul speak very different artistic languages, as do Mawurndjul and I.

Howard Morphy and Wally Caruana have introduced non-sacred understandings of Aboriginal art to wide audiences. Morphy describes both Western and traditional Indigenous art objects as being 'ones with aesthetic and semantic purposes that are used for representational or presentational purposes' (Morphy, 1998 p. 1). Morphy's thesis affirms that both cultures produce art as a celebration of its formal aesthetic values as well as a means of communicating shared social values in social 'ceremonies' such as corroborees or theatre productions (to name just two examples of many). Thus, within similarities such as these, he identifies a space of 'cross-cultural' exchange that has facilitated Indigenous art's acceptance, over time, within the Western art canon. Predominately, Morphy's focus, however, is the significant differences between the two broad traditions, of which there are many. He observes, for example, that 'The designs are forms of knowledge rather than the products of individual creativity' (Morphy, 1998 p. 148). The *Yirrkala Church Panels*, to be described in detail in Chapter 2, are a good example of Aboriginal art as a form of knowledge. These forms of knowledge suggest a radically different conception of

the artist and his or her role in cultural practice, and a radically different conception of the art object and its role in society. Traditional Aboriginal artists are custodians and conduits of knowledge between the spirit world and the mundane world. The individual artist is not seen as the source of creativity. Rather, the events of the Dreaming provide the great themes of Aboriginal art (Caruana, 2012 p. 11). In the absence of written language, the designs of art assume additional significance as repositories and signifiers of shared community knowledge. Caruana writes about Aboriginal art in more generalist terms, noting that ‘Art is central to Aboriginal life. Whether it is made for political, social, utilitarian or didactic purposes – these functions overlap – it is inherently connected to the religious domain’ (Caruana, 2012 p. 7). Most writers and academics emphasise the relationship between identity, art-making and land custodianship as a critical foundation of traditional Aboriginal art (Caruana, 2012 p. 10, Morphy, 1998 p. 148, McCulloch, 1999 p. 12). Most identify traditional Aboriginal art as a means ‘by which the present is connected to the past and human beings with the supernatural world’ (Caruana, 2012 p. 10, Morphy, 1998 p. 48). Indigenous artist, writer, curator and educator Djon Mundine emphasises Aboriginal art’s social role. This contrasts with the focus on the object of art that is at the forefront of much Western literature on Aboriginal art:

In Aboriginal society all art is a social act. Ceremonies are the coming together of different groups of people to collaborate along prescribed lines to create art in song, dance and structured ritual.

(Mundine, 2012 p. 35)

Mundine’s description of the intensely social, social norms of traditional Indigenous cultural practice contrasts with Western norms. The archetypal Western artist works alone, and his or her practice is expected to be highly individualised. In her reading of contemporary Indigenous art practice in *One Sun One Moon: Aboriginal Art in Australia* (2007), Perkins emphasises art’s cathartic values for generations of Aboriginal people traumatised by over 200 years of colonisation. She acknowledges that many Aboriginal artists have incorporated Western art values, such as individual expression and innovation, into their art. Perkins describes how some Aboriginal artists, such as Thomas, bridge both Aboriginal and Western ways of making art in their practices: ‘Indigenous artists have forged distinctive personal and visual

expressions that embrace the communal, yet demonstrate the role of the individual as an innovator in the perpetuation of tradition' (Perkins, 2007 p. 14). These contemporary Aboriginal artists are best understood as hybrid cultural practitioners. Artists such as Tracey Moffat, Fiona Foley, Jonathan Jones, Richard Bell, Vernon Ah Kee and Brook Andrew combine the values and techniques of both Western and Aboriginal art in their practices.

### **The *Aboriginal Flag* as Aboriginal art**

In Thomas' own words, the *Aboriginal Flag* design 'comes from the simplicity and power of Aboriginal art itself. Simple colour, choice of colour, and a simple design. It's powerful, and the colours are important' (Thomas, 2002). Thomas is referring to traditional Aboriginal art that he studied at the South Australian Museum as part of his research for the flag. The museum's collection of Australian ethnographic material is the largest and most representative collection in the world. It has over 30,000 items from many different Indigenous communities, language groups and individuals across Australia. The collection has a focus on Aboriginal men's restricted objects and Aboriginal skeletal material. In his previously quoted statements about the South Australian Museum collection Thomas essentialises Aboriginal art. He describes the work in formal aesthetic terms, rather than reading it as an initiated Aboriginal man who understood its secret and sacred readings. Thomas's aesthetic reading of traditional Aboriginal art emphasises its striking geometric design, strong graphic qualities, schematic representation, flat representations of things (compositions do not have visual depth or employ perspective), and a limited earthy palette (Figures 1.11, 1.12). The materials and palette of traditional Aboriginal art, to an outsider not educated in its subtleties and the coded language of its patterns, are its most unifying elements. It is made from just a few readily available materials that are found across the Australia continent and surrounding islands: earth and earth-based ochres, wood, charcoal, sand, stone, fibre, feathers, bone, seeds and shells. These materials were manipulated with basic tools such as stone axes and fibre- or hair-based paintbrushes and applied to the body, rocks, bark and animal skins. In a way that has the potential to be misleading, the materials and palette of Aboriginal art are clearly determining aspects of its aesthetic, but they should not be thought of as constituting a 'style' or epistemological framework. Within the over 300 language groups that constitute

Aboriginal Australia, similar patterns crafted with similar materials have dramatically different meanings that reflect their cultural origins. Examples are given below.



Figure 1.11: Kangaroo totemic ancestor – Bark painting, Arnhem Land, c. 1915. Bark, ochre. dimensions unknown.



Figure 1.12: A carved Wiradjuri tree photographed near Dubbo, NSW (191?). Photograph by Henry King SPF/1153. State Library of NSW.

In the traditional bark paintings of Arnhem Land, and rock art found across Australia, there is little mixing of colours and variation in tone within the scope or palette of colours used by artists. Instead, a work of art will characteristically feature single tones of just a few colours: predominately yellow ochre, white, red, and black; across the entire work (Fairley, 2015). To Western eyes, some Aboriginal art appears to sit between abstraction and figuration. Some aspects do represent abstract designs; however, geometric patterns such as cross hatch characteristic of Arnhem land art, are often coded and as previously noted akin to a basic written language (see Chapter 2). Sutton contrasts European impressionist and Aboriginal art, to make the observation that the former approach is predominately perceptual, while the latter is generally more conceptual (Sutton, 1988 p. 36). Sutton gives the example of a circle noting that ‘is not simply the object it represents; it is also what the object stands for’ (Sutton, 1988 p. 49). The circle may represent, for example, a ceremonial gathering and all its

social meanings as cultural locus. Clearly, as documented earlier, the way Thomas describes the meanings of the *Aboriginal Flag* reflects this conceptual approach.

What is striking in both Thomas's description of traditional art and those of Perkins, Cubillo, Mundine, Caruana, Morphy and my own is that the great majority of those broad generalisations apply to the *Aboriginal Flag*. In formal terms, the flag is characterised by its striking geometric design, strong graphic qualities, semantic representation and limited palette; and it sits between abstraction and figuration. Of greater significance, as a work of conceptual art, the flag expresses Indigenous knowledge, it serves political, social, utilitarian and didactic purposes and it expresses individual and group identity that is strongly associated with land custodianship. The latter is visualised in historical and contemporary images of Aboriginal boys, who, as part of their initiation ceremonies, are seen lying on their backs, having their totem designs painted on their bodies with markings or earth ochre paints (Figure 1.13). These initiation practices are repeated in Indigenous communities across Australia. The Elders are imparting the secrets tenets of Aboriginal culture to these young men. Here we have the earth as initiation, the earth as knowledge, the earth as bed, the earth as paint, the earth as culture and the suggestion of the earth as the body's final resting place. This is the essence of the *Aboriginal Flag* as well. In Thomas's words the flag represents the 'black people's connection to red land' (Thomas, 2002). When he states 'the flag is me' he is alluding to his own body's relationship to the land, and a central conceptual locus of Aboriginal culture.





Figure 1.13: Aboriginal initiation. Date and photographer unknown.

### **The *Aboriginal Flag* as Western art**

The majority of Thomas's life before designing the *Aboriginal Flag* was spent in white institutions and within Aboriginal and non-Aboriginal social milieux such as St Francis House and his adoptive family, the Wallaces. At St Francis House, Aboriginal boys surrounded Thomas, but he was never to be initiated or taught the traditional ways by his Aboriginal Elders. As part of his four-year Diploma in Fine Art (Painting) degree (1965–69) at the South Australian School of Art, he was taught Western art history, Western art techniques and ways of thinking that have clearly been deeply influential on his practice. Thomas's creative practice is firmly rooted in two very different cultures, which have manifested themselves in contrasting ways. As such, it is necessary to also contextualise the *Aboriginal Flag* within the canon of Western art.

As Australia's first Aboriginal graduate from a Western art school, Thomas was the first of a new generation and type of Aboriginal artist, urban or remote. Unlike his Indigenous predecessors, such as Albert Namatjira, who also employed Western art mediums and techniques, Thomas was taught at art school to think in a more conceptual and critical manner germane to Euro-American artistic traditions. The difference between the ways in which Namatjira and Thomas conceptualised their art is a reflection, in part, of the broader changing norms of how Western art was taught and conceived in two different art historical periods or epistemologies. Although Namatjira painted in a Western style and with Western materials, his water colour paintings depicted his people's significant ancestral places (French, 2002b p. 18-19, Caruana, 2012 p. 106). Before the 1960s, Australian art such as Namatjira's was based on traditional art skills and techniques (painting and sculpting), and this understanding of the history of art and Modern art. Art made in the 1960s and after, such as Thomas's *Aboriginal Flag* reflects art under the influence of the values, strategies and ways of thinking of the many art movements of that era, such as the American Black Arts movement, Op Art, Hard Edge art, Arte Povera and Conceptual art. Thomas lists Op Art and Hard Edge art as particularly influential on the *Aboriginal Flag*'s design (Thomas, 2009 p. 41).

The way Thomas discusses the formal properties of the *Aboriginal Flag* is very familiar to me: we speak the same Western, conceptual art school taught language. We preference the ideas of art, its politics and its social contexts, alongside its aesthetic and material qualities. Thomas as flag designer was a pioneer for subsequent generations of generally urban Aboriginal artists who would excel in the new hybrid conceptual manner of making and thinking taught in Western art schools. Moffat, F. Foley, Jones, Bell, Ah Kee and Andrew are representative of conceptual Aboriginal art practice (they are discussed in greater detail in Chapter 2). It is important to quantify these statements, however, by recognising that the *Aboriginal Flag* is Thomas's best-known work of art. The majority of his creative output has been figurative water colour landscape paintings which he himself describes as commercial art.<sup>11</sup> These have provided a means of income for him since the mid-1980s. In 2016, Thomas's painting *Tribal Abduction* won the 33rd Telstra National Aboriginal and Torres Strait Islander Art Award. The painting, which is perhaps autobiographical in

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<sup>11</sup> As stated in an informal unrecorded conversation on the 20 July 2016 with the author.



its themes, depicts the taking of an Aboriginal child from his family by Australian government officials. This work conceivably marks a turn away from figuration in Thomas' practice, back towards art that has a narrative and is conceptual or political in its premises.

The *Aboriginal Flag*'s most significant artistic characteristics are its overt politics, its anti-establishment ethos, the context for which it was created (the street rather than galleries) and its semantic reading between mediums (art and flag insignia). These characteristics set it apart from most Modern art leading up to the 1960s, which was created for exhibition in galleries and was primarily concerned with an internal art dialogue that explored the parameters and discipline of art-making, as a separate set of concerns from the day-to-day concerns of life. Understanding the flag within this Modernist art framework is instructive for a number of reasons. It reveals the conservative Modern art ideologies and agendas that seek to 'delegitim[ise the] political content in art', and it reveals the many values to which the *Aboriginal Flag* is antithetical (Enwezor, 2008 p. 41).

To this day, there are many conservative arts professionals (artists, curators and critics) who oppose art that engages with life (Demos, 2008 p. 41). In 2004, one of the art world's most influential conservative art magazines, *Artforum*, published a feature collection of essays titled *The Art of Politics*. In his introduction, the editor Tim Griffin states:

The issue proved by far the most challenging to be assembled by the current editorial group at Artforum – due in part to a deep-seated resistance we felt to the pairing of art and politics, or, to recast the matter slightly, the pairing of art and its social context.

(Griffin, 2004 p. 205)

Griffin's rejection of 'the pairing of art and its social context' is surprising. Many of the magazine's articles contradict this position – they discuss the lives of the artists they review, the social context of their works' creation, and their social and artistic influences (Withers, 2004 pp. 182–87, Hoberman, 2011 pp. 96-9). *Artforum*'s editorial position and arguments are best understood within broad ideological divisions in the art world. The Modernist manner of making art – once radical but now conservative – emphasises self-referentiality (art for art's sake), and the rejection

(in theory rather than practice) of ‘the pairing of art and its social context’. Some answers to the initially puzzling insistence on this separation can be found in *Distinction: A Social Critique of the Judgment of Taste*, Pierre Bourdieu’s classic 1979 sociological study of class and distinction in post–Second World War France. Bourdieu’s work is significant to this study because his analysis of the premises of modern art reflected an understanding of social premises of art that was widely accepted in the decade in which Thomas created the *Aboriginal Flag*. Bourdieu argues that ‘the pure intention of the artist is that of a producer who aims to be autonomous, that is, entirely the master of his product’ (Bourdieu, 1984 p. 3) and that ‘[t]o assert the autonomy of production is to give primacy to that of which the artist is master i.e., form, manner, style, rather than the “subject”’ (Bourdieu, 1984 p. 3). Bourdieu convincingly frames ‘autonomous’ Modern art as a tool of social distinction and a means of reinforcing bourgeois values, famously stating: ‘Taste classifies, and it classifies the classifier’ (Bourdieu, 1984 p. 6). This order seeks to give primacy to the proponents of Modernism: the Modern artist, the Modern critic and the Modern art collector. To open the door, to let the social enter the realm of art, is to forgo the aura of the Modern work of art, and its underlying constructed social and economic value to the bourgeois. This reading of Modern art is a twenty-first century reading of Modernism, one that acknowledges it as a system of values that some contemporary artists chose to adhere to. That said, in our contemporary context, modern art represents an art ideology associated predominately with the European and American art-making period stretching from the eighteenth century to the 1960s. Within that same cultural Euro-American framework, modernism has since become one of many ‘isms’ (Popism, Conceptualism, Minimalism, Postmodernism), and it is critically no longer associated with progressive social values.

The system of exclusion described by Bourdieu has the potential to work powerfully for and against individual artist’s agendas (Demos, 2008 p. 168). A minority of artists profit handsomely from this system when their art establishes itself as being celebrated and highly sought after. Clearly, for an artist like Thomas, an outsider who had suffered deep discrimination, the rarefied and self-serving ideals of Modern art were the antithesis of his lived experience, culture and social class, and of his agenda as a radical young Aboriginal artist. Thomas imagined that art could serve agendas beyond the limitations and confines of bourgeois Modern art, and he intuitively drew upon life to create his masterpiece. In this, he was not alone, the

1960s and 1970s saw many counter-culture artists seek to undermine the arts establishment by creating often ephemeral, non-commercial art that would speak directly to the masses on the street. In Australia, exemplary artists included Geoff Hogg, Gwenda Wiseman and David McDiarmid, who created murals and posters that featured on the streets of Australia's main metropolitan centres. The *Aboriginal Flag*, as a cheaply reproducible flag, undermines many of the structures of Modern art that Bourdieu describes. It represents the values of a social and economic minority; it can be owned by anyone who has a few dollars, and is not dependent on art institutions for its validation as a powerful sign; and since art collectors or traders have yet to find a way to market and profit from its sale it exists outside of a bourgeois value exchange system. To some extent, these arguments explain the *Aboriginal Flag's* non-status as art.

In response to changing social and political values, and to the evolution of mass consumer culture and new technologies, new and idiosyncratic ways of making art emerged in the twentieth century that challenged how art is defined. In turn, theories also emerged that sought to describe how everyday objects became art. The institutional definition of art (sometimes referred to as the institutional theory of art) – as described by Arthur Danto and George Dickie – is one such theory. Its ideas relate closely to the cultural, social and consumer contexts within which the flag was conceived, making its selection as a vehicle for understanding and defining the flag as appropriate and revealing.

In the article 'The Artworld', Danto grapples with Andy Warhol's seminal *Brillo Boxes* (1964) work of art/provocation which Thomas would have been familiar with when he designed the *Aboriginal Flag*. Danto seeks to understand the significance of how some objects (for example, Brillo boxes) can exist simultaneously as consumer items in a storeroom or supermarket and as works of art in a gallery; he concludes that it is criticism, philosophy or theory that makes one art and the other not (Danto, 1964 p. 581). These ideas have their popular expression in the art world maxim: 'Art is anything defined as art'. George Dickie's 1984 publication *The Art Circle* (which revised the ideas of his earlier 1974 publication *Art and the Aesthetic*) argues for a broader understanding of the definition of art, one that acknowledges the social mechanism at play in the art-defining process. Within Dickie's model, artists and the art world public engage in a fluid series of social exchanges that determines what is and what is not art (Dickie, 1984 p. 80-82). Danto's and Dickie's theories

represent one theory among many that have sought to address the problem of art's definition across the ages.

The institutional definition of art has the advantage that it is broad in scope, that it describes a process that is ultimately consultative and inclusive, and that it allows for art professionals to change their positions over time, as shown by the example of Croft. Rather than describe which objects are and are not art, the theory describes a fluid social process. This idea of art is circular, and therefore a flawed system in the eyes of some (Becker, 2008 p. 25). Like a snake devouring its own tail, art world constituents (artist, curators, art historians and theorists) both police and are policed in this model. However, for individual artists, or minority groups such as Aboriginal cultural practitioners operating within a colonial context, the possibility for changes in attitudes over decades, and the right of advocacy and the empowerment of artists at the centre of this definition of art, is significant. The institutional definition is a framework that goes some way towards describing the processes that have already enabled pre-settlement Aboriginal cultural practices to be accepted as art within the Western canon. Just as significantly, it describes a process within which a contested object such as the *Aboriginal Flag* – which sits between mediums and cultures – can come to be accepted as art. Within the Danto–Dickies model, the first of a two-step process of the art world reaching a consensus on the status of Thomas's flag as art has been put in place. Thomas is a trained artist and he consciously conceived the flag as art. Croft's statements and essay, Anderson's statements, and this present thesis, are all steps towards the art world recognising the flag as art.

One way of understanding the ontology of art-making is to view it as a series of value judgements that the artist makes during the creative process. This process is as much about what the artist chooses to do, as it is about what the artist chooses to leave out of the work of art. Within this understanding of art-making, the *Aboriginal Flag* final 'design' is simple. That said, the decisions Thomas made to create the flag reflect a critical process that resulted in a deeply satisfying design that has rich historical and semantic references and meanings. The following concluding arguments explore the flag's essential formal elements, the flag's semiotic readings and variations of Thomas's design. Together these analyses reveal that the design was a carefully considered, drawn-out process of a serious artist.

The *Aboriginal Flag*'s composition depicts a landscape. This formal quality sets it apart from most flags, which are abstract and symbolic in design. Within the

landscape, this aspect of Thomas's design gives the flag a sense of formal resolution: the flag mirrors the context within which most flags are displayed. The sun in his design is represented in the flag's 'landscape', but not in a naturalistic way. Instead of the sun either receding behind the landscape's horizon (like a setting sun), or being placed in the 'sky' (as the Southern Cross is represented in the Australian flag) it is superimposed on the landscape. Thomas has elected to superimpose a full sun in the composition and place the black band on top as the composition's horizon. A less judicious, more literal approach may have resulted in the flag being reconfigured to present a more literal representation of the sun within a landscape (as a setting sun) (Figure 1.14). In this image, the formal resolution of Thomas's design is clearly missing. The sun, surprisingly, is now a more dominating presence in the composition, even though only a semicircle is visible. The design now represents a setting sun within a landscape. In this reading, the sense so powerfully conveyed in Thomas's flag, that of the Aboriginal people's spiritual connection to the landscape, is weakened. A setting sun could be interpreted as symbolically representing Indigenous Australian's decline as a people – a deeply inappropriate reading of the flag that would be antithetical to Thomas's black Pride agenda. Finally, this more literal landscape makes less formal sense – the sky in a setting sun landscape is never black, or dark (as in a night sky). Figure 1.15 shows the flag without a sun. This design is far more abstract in its reading. The illustration could still be a landscape that reinforces Aboriginal peoples' connection to their land, but it could also be read more like the German flag, which is made up of horizontal colour bands or strips that are abstract (it does not represent or suggest an object or a landscape).



Figure 1.14: Matthieu Gallois. Flag variation study #1.



Figure 1.15: Matthieu Gallois. Flag variation study #2.

A reading of the yellow ochre sun or circle – not identified in any of Thomas public statements on the *Aboriginal Flag*, but nevertheless worthy of mention – is intimated in Peter Sutton’s broader readings of what he describes as ‘The Aesthetic Locus of Aboriginal Art’. Sutton argues that the key locus of Aboriginal aesthetics ‘in

the classical traditional' is ceremony and its symbolic representation in Aboriginal art is the circle (Sutton, 1988 p. 29). In Aboriginal art the circle is 'an almost universal motif' that 'reflects the intimacy and egalitarian spatial symbolism of the arrangement of a people around a single camp fire' (Sutton, 1988 p. 63). It represents and symbolises the physical arrangements of ceremonies. If Sutton's assertions are correct, they perhaps further help explain the affinity a great many Indigenous people across Australia's hundreds of Aboriginal language groups feel for the *Aboriginal Flag's* symbolism. A fundamental precept of Indigenous culture, the circle, is found in its symbolism.

In the final flag variation study (Figure 1.16), the *Aboriginal Flag* is shown with the black band at the flag's base. Black, as a heavy visual mass, makes this redesigned flag more like a traditional balanced landscape image (usually, to balance a composition, the heaviest shapes and colours of a painting or design are placed at the bottom of an image.) Thomas chose to place the black band at the top of the flag: 'as a means of unsettling the composition of the flag'.<sup>12</sup> He reasoned that by placing the black on top (the colour with the greatest visual 'weight') that colour, as the flag's 'political inclusion', would make the design more compelling and powerful.



Figure 1.16: Matthieu Gallois. Flag variation study #3.

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<sup>12</sup> As stated in an informal unrecorded conversation on 3 December 2013 with the author.

The *Aboriginal Flag* appropriates a Western, non-Aboriginal idea of flag making, but its purpose and reading also has parallels in traditional Indigenous Australian language groups who create motifs and signs to identify cultural groupings and signify ‘custodianship’ of land (see Chapter 4). Thomas’s flag was conceived in defiance of British, and later Australian government, claims of sovereignty over Aboriginal people. Finally, the *Aboriginal Flag* reaffirms Aboriginal people’s connection to their ancestral land. Aboriginal people see the who and what of Aboriginal identity expressed in their *Aboriginal Flag*. Thomas’s job at the South Australian Museum, which gave him access to the largest collection of Australia Aboriginal art in the world, enabled him to ‘glean over every artifact, every design’ in the collection (Thomas, 2002). In this ideal setting, Thomas was able to immerse himself, research and think about his Indigenous cultural heritage and conclude: ‘There’s something powerful and strong here that should be expressed’ (Thomas, 2002). Thomas states himself that the flag’s design was not ‘an accident, it was planned’ (Thomas, 2015). Clearly, these are not the recollections of an artist who got lucky and simply chanced upon a compelling flag design. Rather, these statements support the view that Thomas’s creative flag-making was indeed the drawn-out, considered process of a serious artist. At just 24 years of age, Thomas demonstrated remarkable maturity, ingenuity and confidence in his art-making values and judgements. He identified the strengths (as he perceived them) of Aboriginal culture and reconceptualised the ‘simple’ and ‘powerful’ graphic qualities of Aboriginal art into a compelling non-Indigenous contemporary cultural framework: flag-making (Thomas, 2002). In doing so, Thomas created a design that is both timeless and contemporary, and he bridged two cultures, one ancient, the other modern. The *Aboriginal Flag* possesses the qualities of great art: it looks both backwards and forwards in cultural time, and it speaks a compelling visual language that transcends words and cultures.



## **The *Aboriginal Flag* as a work of activist art**

This chapter explores the *Aboriginal Flag* as a work of activist art, and more broadly, it identifies the role of culture in Indigenous activism post-colonisation.

Both in simple mundane interpersonal interactions and in complex social cultural political forums, the *Aboriginal Flag* has set the agenda, argued the point and brought about social change. In light of this, it is necessary to define it as distinct from other works of art and, in particular, other works of art that share social and political themes and aspirations. The relationship between Indigenous art and politics does not have a wide body of literature. Somewhat counter-intuitively, the theories of Western art critics and historians provide an introductory framework for discussing the *Aboriginal Flag* as activist art. This strategy provides a proxy theoretical framework upon which to build themes and arguments. It is also a means of locating the discussion within an acknowledgement that Indigenous contemporary art exists within colonial frameworks, or, as Willis and Fry frame it, within an ethnocentric model. Western theory is a 'room' that the reader is guided through as part of a wider, richer de-colonising discourse about the meanings and readings of the *Aboriginal Flag*. Before activist Indigenous works of art such as the *Bark Petition* and the *Aboriginal Flag*, some established Western ways of understanding social and political art collapse. In these works, art and politics fold in on themselves and become one and the same – this reflects these works' semantic structures and their colonial contexts, which are different to the structure and contexts of Western art.

### **Activist art**

For Aboriginal activists Harold Thomas, Gary Foley, Michael Anderson, Billy Craigie, Tony Coorey and Bertie Williams (the last four of whom initiated the Tent Embassy), the rationale for creating both an Aboriginal unifying symbol in the form of a flag (1971) and the Tent Embassy (1972) was self-evident. Aboriginal people were, and continue to be, dispossessed of their land, a fact reinforced at the time by the lack of a shared unifying Aboriginal national symbol such as a flag. In their sentiments these young activists were channelling the father of the international Negro movement, Marcus Garvey (who created the pan-African flag), and black

people across the globe, who asserted their civil rights and independence throughout the twentieth century. Thomas, Foley and the Tent Embassy activists were also channelling the example and strategies set by their Australian activist forebears, who had been petitioning the Australian government from as early as 1935 for ‘representation in the Parliament’ (Government, 2017a).

In its symbolism, the *Aboriginal Flag* challenges the doctrine of *terra nullius* and asserts Aboriginal sovereignty and black pride. It affirms that Indigenous Australians have never given consent to be governed by the British Crown or the Australian state, nor relinquished their lands. The *Aboriginal Flag* at the Tent Embassy, the burning of the flag by Shoalhaven mayor Watson in 1982, the 1988 Bicentenary protests and Cathy Freeman’s flag-waving victory lap at the 1994 Commonwealth Games are some key revelatory moments in the flag’s history. They show the flag acting as a dynamic political symbol and a catalyst for change. That history is documented and analysed in Chapter 6, ‘Social change and the *Aboriginal Flag*’, and in the concluding chapters of this thesis. Across this narrative arc, a dramatic shift takes place. The way white Australians ‘perceive’ the *Aboriginal Flag* undergoes change. This transformation is characteristic of shifting power dynamics between two contesting entities, as described by Michel Foucault: ‘As soon as one can no longer think things as one formerly thought them, transformation becomes both very urgent, very difficult, and quite possible’ (Foucault, 1988 p. 155). In 1971, not a single *Aboriginal Flag* flew and symbolically ‘crowned’ and ‘claimed’ Australian public buildings and the associated symbolic political and legal space. In the second decade of the twenty-first century, the *Aboriginal Flag* is omnipresent across Australia’s public domain. This change represents a decisive shift towards cultural pluralism and tolerance, and the fracturing of Anglo-Celtic cultural hegemony in Australian society.

The *Aboriginal Flag* reflects art movements of the 1960 and 1970s and the overt political and anti-establishment ethos of that era. Since the 1960s Western art practice has become more plural in its forms, the boundaries between art and life have become harder to define, and more artists have explored and practised politics and activism in their art. Since then, Indigenous and non-Indigenous art possessing social and political content has been labelled or categorised by artists and theorists in many different ways; for example, as social or political art, activist art, relational aesthetics, social and political art, community art, conceptual art, protest art or community-based

art. For the purposes of this thesis, the above practices will be referred to collectively as social and political art.

The *Aboriginal Flag* represents a relatively straightforward case study of activist art. It was conceived as art, it is omnipresent in the public domain, it is clearly associated with issues such as land rights, and it has a sustained history as a catalyst for change. Chapter 1 has documented how the *Aboriginal Flag*, at least in the eyes of some arts professionals, fulfils accepted criteria for being classified as art. The criteria the *Aboriginal Flag* must fulfil, as activist art, are narrower in scope and less subjective; they are therefore less complex and easier to understand. Like an activist campaign, activist art addresses an issue and its purpose is to enact change in attitudes, policies or laws in relation to that issue. Both art activism and non-art activism represent political processes, but they differ from representative politics in many distinct ways. Activists initiate their own campaigns. They are not the elected representatives of the people. They are volunteers (in Western society, paid activists are called lobbyists). Traditionally, they pursue a single issue, rather than representing a broad range of social, political values and ideologies, as does a political party. For example, over a period of three years, activists in the Leard State Forest in the heart of the Liverpool Plains in north-western New South Wales protested the expansion of open-cut coalmines (Society, 2016). Unlike straight activism, activist art has to negotiate the histories, the cultural conventions and institutions of the art world. Activism in this context contends with a different set of social and cultural criteria which, by definition, result in a type of activism that is different from other non-art forms of activism.

A fundamental point so often overlooked by artists who make art with social, political or activist agendas is that the Western art world does not represent a constituency for activism, a true forum for political discourse or even a particularly meaningful space for the discussion of social issues. At best, some members of the art world might support the agenda of activist works of art, be interested in politics and how they are expressed in art, or be interested in social issues. The great majority of social and political art exhibited in galleries is relegated to the confines and limitations of the art world; it is destined to be evaluated principally by art world values, which seek to answer the principle art world questions: is it art? Did the artist exercise the sort of value judgements appropriate to the art world when he or she made his or her oeuvre? Contemporary registers of success in the art world (visibility,

critical acclaim and sales) are all art-world constructs and structures that reflect the values of the art world. The work of many passionate social and political artists is celebrated and successful in the art world, not because of its politics or because it has brought about social change, but because it successfully embodies and expresses art world values such as aesthetic resolution or innovation. Eager to advance their careers and the visibility of their art, artists often focus on the immediate task of securing their next exhibition or making a sale; as a result, they are subservient to art world values. Arts writers and critics Nato Thompson and Tim Griffin warn that ‘[a]rtists too can be guilty of projects wherein the production of art is simply advertising for the ultimate product: themselves’ (Thompson, 2012) (Griffin, 2008).

For the purposes of this study activist art is identified as a distinct category of art-making within the larger grouping of social and political contemporary art practices that has emerged in recent decades. In contrast to social and political artists, activist artists seek to go beyond being cultural producers and commentators on society, who are satisfied by the effects of their work, and to become active forces of change in society. As an extension of this rationale, as a genre of art-making, activist art can only be identified retrospectively, when a clear link between a work of art and social change in society can be identified. Activist art that tries but fails to bring about change falls back into existing simply as social and political art. This idea of activist art serves to inform our understanding of the *Aboriginal Flag* in ways that differentiate it from other social and political works of art, and it is a means of highlighting the flag’s considerable achievements as a dynamic symbol. The *Aboriginal Flag* demonstrates a powerful alternative set of expectations and expectations of what a genre of social and political art can achieve. For the purposes of this thesis and beyond, art activism combines the values and agendas of both art and activism.

### **The theory and ideology of Western social and political art**

For many Western philosophers, art critics, arts writers and artists, the pairing of art and politics is a complex and controversial issue. The scope of arguments reflects the broad nature of the art in question, Western ideas about art over many centuries, the subjective and ideological nature of art criticism, and, at times, the racial biases of artists, theorists and art historians. This contested history also reflects ‘the imprecision

of both of the key terms' (art and politics), which sabotages some attempts to define social and political art (McNeill, 2005 p. 3, Groys, 2008 p. 1-9). The pairing of art and politics is contentious to the extent that opinions relating to its subject transgress traditional ideological divisions in the art world. Progressive theorists such as Theodor Adorno (the Frankfurt School member whose art philosophies emerged out of Marxist thought) side with conservative commentators such as Griffin (*Artforum* editor in chief, 2006–13). Both these thinkers assert that art should retain a degree of autonomy from life and politics – even if they arrive at this shared conviction from different philosophical positions (Adorno, 1977 p. 178, Griffin, 2004 p. 205). These ideas, which derive from European and American theoretical traditions, do not for the most part address the Australian Indigenous themes or subject matter that are the subject of this thesis. They contrast dramatically with how art with political content is conceived and practised by Indigenous Australians.

The contested nature of social and political art in Western discourse reveals much about the premises of Western art. The extent to which it is of significance to the study of the *Aboriginal Flag* is debatable. The flag as art, as determined in Chapter 1, derives from two cultural traditions – Western art and Aboriginal art. As art, the flag reflects its Western and Aboriginal epistemologies with a degree of symmetry – both readings are meaningful and significant. As Indigenous activist art (to be dealt with later in this chapter), the *Aboriginal Flag* reveals itself to be entirely consistent with Aboriginal cultural/political practice. Indeed, its cultural politics are a deep expression of its indigeneity. As activist art, the scales tip in favour of an Indigenous reading of the *Aboriginal Flag*. To say this is to acknowledge that a revelatory Western theoretical framework that describes the flag's specific conditions does not exist. The art and thinking associated with the Situationist International movement (1957–72) is the closest approximation. Western theory, however, affords conceptual frameworks for better understanding the *Aboriginal Flag*'s indigeneity as it exists in contrast to Western political/cultural practice and theory. Conversely, the flag, as representative of Indigenous activist art practice, offers pertinent lessons for the Western understanding of art in other cultures, and for art's potential to act as a catalyst for social change in all cultures.

Whereas Adorno questions committed arts efficacy as activism, he contends that all art is political (Adorno, 1977 p. 175). A chorus of thinkers across many creative disciplines support this view, including author George Orwell and Chinese artist Ai

Weiwei (Weiwei, 2013). Orwell identifies the crux of the argument: ‘the opinion that art should have nothing to do with politics is itself a political attitude’ (quoted in Levy, 2014). In other words, statements and actions that negate art’s agency represent a worldview in which non-art discourses seek to determine the subject of art. Adorno does not believe in this kind of art censorship or propaganda. Rather he argues that autonomous art, art that extends beyond its social and political agendas and addresses the traditions of its medium, be it literature, painting or music, has more potential to subvert and destabilise understandings of art, politics and life than does committed art (Adorno, 1977 p. 178). The Aboriginal flag, in Adorno’s terms, is art that is both autonomous and committed. It sits, as an unstable, fluctuating sign, destabilising its reading as a flag and as art. As Aboriginal art that exists across cultures and colonial politics, it also unambiguously asserts its political agendas and status as political art.

The artist and philosophers associated with the Situationist International movement advocated and practiced *détournement* – a culturally based form of activism that appropriates and subverts old forms of art. It is a mistake to view the creation of the *Aboriginal Flag* simply as a ‘counter flag’, or as a *détournement* of the Australian flag, or of any other Western flag. In the first instance, the Aboriginal Flag, as determined in Chapter 1, is a profound expression of indigeneity. The Nowra Aboriginal Flag (see Chapter 3), which reproduces, and thus reinforces, Anglo-centric hegemonic power relations within its symbolism, is more easily identified as an act of *détournement*. The example of Situationist art provides examples of art practices, interventions and works of art that are both committed and effective as activism. The movement influenced and inspired Punk art, the Guerrilla Girls and Barbara Kruger slogan art (to name just a few).

For philosopher of politics and aesthetics Jacques Rancière, social and political practices are confronted with a ‘core problem’. In his view, ‘there is no criterion for establishing an appropriate correlation between the politics of aesthetics and the aesthetics of politics’ (Rancière, 2004 p. 64). Rancière defines the ‘politics of aesthetics’ as ‘forms of community laid out by the very regime of identification in which we perceive art’ (Rancière, 2004 p. 60). As for ‘aesthetics of politics’, this describes all forms of propaganda, whether created by social and political artists or governments. For Rancière, art and politics have their own ‘virtues’; they are separate disciplines. The fact that a work of art’s subject is political does not mean that its creation will have any bearing on the issue it addresses. Rancière conceives social and

political art as irrelevant to political discourse or the machinations of power.

Claire Bishop contextualises Rancière's theories within contemporary visual art practice that reflects their predominately Western, 'first world' and Christian premises. Bishop perceives social and political Western art to be 'dogged ... from its inception' by the following 'conflicts': equality and quality; participation and spectatorship; art and real life (Bishop, 2012 p. 38). To her mind, these conflicts 'suggest that social and artistic judgments do not easily merge: indeed they seem to demand different criteria'. For one sector of artists, curators and critiques (the social discourse group), 'a good [social and political work of art] project is based on ethics' (often 'inspired by Christianity') that 'offers ameliorative solutions' to society. The other group (the artistic discourse group) seeks to expose 'contradictory social truths' (Bishop, 2012 p. 38). For the latter, 'ethics are nugatory, because art is understood continually to throw established systems of value into question, including morality' (Bishop, 2012 p. 38). The Western art world Bishop conceives is therefore divided by conflicting agendas: it 'is either underpinned by morality or it is underpinned by freedom' (Bishop, 2012 p. 38). Bishop is correct in asserting that some social and political artists strongly identify with the idea that good social and political art is based on 'ethics' that 'offers ameliorative solutions'; she fails, however, to deconstruct the naivety of this position. To do 'good' is a complicated and often flawed idea/proposition. What is good and moral may vary from person to person. Many well-meaning art projects have net zero social impact, and a minority have negative, or even disastrous, outcomes for the communities they seek to 'help'. A more revealing and constructive way of thinking about art such as the *Aboriginal Flag* is one that wisely puts value judgements about the moral and ethical benefits of the work into the 'too hard' basket, and asks instead, 'Did this art work bring about social change?'

Bishop's contemporary and editor of *Living as Form: Social and Political Art from 1991–2011*, Nato Thompson, addresses social and political art practice (which he terms 'socially engaged art') in cautionary terms that highlight the complexity and pitfalls of the genre. He concludes his introduction to the book by stating:


Socially engaged art may, in fact, be a misnomer. Defying discursive boundaries, its very flexible nature reflects an interest in producing effects and affects in the world rather than focusing on the form itself.

(Thompson, 2012 p. 27)

Here Thompson is alluding to the inverse pitfalls of focusing on the social change aspects of the work at the expense of its art values – resulting in predictable results: bad art. Whereas art theorist T.J. Demos shares these concerns (Demos, 2008 p. 34), he ultimately has a more positive view of the pairing of art and politics. Demos argues that the ‘representational conventions’ of each discipline have the potential to ‘challenge[d] each other’s autonomy’ in productive ways (Demos, 2008 p. 35). In his view, artists such as Walid Raad, Emily Jacir and Steve McQueen have managed to ‘join (somehow, uneasily, paradoxically) political commitment and subjective desire, forming a complex image world that unleashes unconscious processes and imaginative scenarios’ (Demos, 2008 p. 35) These practices reconceptualise ‘art’s autonomy as a potential zone of the political beyond the determinations of governmental policy or activist tactics’ (Demos, 2008 p. 35). These artist’s practices represent new, potentially dynamic, forms of activism. In Australia, very few works of art can be said to have brought about social change. Two prominent examples are David McDiarmid’s gay and AIDS activist art posters and Peter Dombrovskis’s environmental art photograph *Morning mist, Rock Island Bend, Franklin River, southwest Tasmania, Australia* (Figures 2.1, 2.2). McDiarmid’s posters were created over a number of years during the AIDS crisis, and they played an important role in educating the gay community about safe sex practices. Dombrovskis’s iconic photograph played an instrumental role in the successful campaign to prevent the damming of the Franklin River in Tasmania (1976–83). The photograph was reproduced by the Wilderness Society, and widely distributed during the 1983 federal election. Whereas both McDiarmid’s gay rights and AIDS posters and Dombrovskis’s iconic photographic images of the Tasmania wilderness reflect the sensibilities of fine art and were exhibited in fine art galleries, they operated largely outside traditional institutions and frameworks of contemporary art practice.



Could you vote for a party that will destroy this?



Despite advice from his Attorney-General's Department that he has the power to intervene, Mr. Fraser has refused to prevent the flooding of the Franklin River.

Despite evidence that flooding the Franklin will be of little benefit to tourismists in providing power or creating jobs (the dam will add only 30% to Tasmania's electricity supply, fewer than 1000 construction workers will be employed, and only 20 permanent jobs created), Mr. Fraser's Government is chosen to preserve peace in the Liberal Party rather than act to preserve an area of irreplaceable beauty.

If the Liberal Government is re-elected, this scene will be drowned, along with hundreds of other equally unique places.

Our concern is not politics, but the Franklin. Unfortunately, Mr. Fraser has made the Franklin a political issue.

And so we must ask you to vote for those parties committed to saving the Franklin.

Even though you may never have voted for them before and may never again.

We ask you, this once, to put Australian heritage above party politics. To vote, in the Senate, for the Australian Democrats. And, in the House of Representatives, for the Australian Labor Party.

Because your vote, now, can save the Franklin for all time.

**VOTE FOR THE FRANKLIN**  
BECAUSE ONLY YOUR VOTE CAN SAVE IT.

National South-West Coalition  
Including Tasmanian Wilderness Society and Australian Conservation Foundation

Figure 2.1. An ad created by the National South-West Coalition based on Peter Dombrovskis' *Morning Mist, Rock Island Bend, Franklin River, south-west Tasmania*. Original work of art: Peter Dombrovskis. *Morning Mist, Rock Island Bend, Franklin River, south-west Tasmania*. 1979. C type photograph.



Some of us are in love, some of us are in lust.  
All of us fuck with condoms - every time!

ACON

Figure 2.2: David McDiarmid. Poster © ACON, 1992.

The arguments of Adorno, Rancière, Bishop, Thompson and Demos provide an appropriate introductory framework for discussing social and political art. By identifying the need for treating art and activism as two separate disciplines, they lay the theoretical foundations for better understanding each individual discipline and their pairing. This distinction, as explored later in this chapter via a comparison between the *Aboriginal Flag* and Richard Bell's painting *Pay the rent*, is the key to understanding how social and political art differs from activist art. Their theories are nevertheless severely limited by their Eurocentricity. They fail to consider the unique place of Indigenous art in Australian Aboriginal culture, and the colonial context of that art post-invasion (or indeed any art-making or contexts other than Western art contexts). Rancière's assertion that 'there is no criterion for establishing an appropriate correlation between the politics of aesthetics and the aesthetics of politics' collapses before social and political Indigenous works of art.

Over several decades Australian cultural critic Anne-Marie Willis and design theorist Tony Fry have collectively affirmed the need to question claims made about arts efficacy:

Given the structurally subordinate position of Aboriginal people within Australian society, the question of the efficacy of a claimed cultural politics of Aboriginal art was [in 1983] (and still is, as far as we're concerned) [in 2011], the only ethically valid question to consider.

(Willis and Fry, 2011 p. 286)

In their statement, Willis and Fry identify the need for a different set of criteria for thinking about social and political art that is created within colonial and post-colonial social and political contexts. For them, the issues that characterise Australia's race relations concern real world situations that transcend the often narrow art-related concerns of the Western art world – issues such as entrenched poverty and the disenfranchisement of Indigenous peoples in Australian society.

### **Indigenous social and political art**

In the second decade of the twenty-first century, there are several identifiable, broadly overlapping types of Indigenous visual art practices in Australia (some artists' art

shifts between genres over time or inhabits multiple genres at once). An investigation of how Aboriginal art practices operate in their various forums is illustrative of their structures and also the general structures of most social and political art.

Artists such as Tracey Moffat, Fiona Foley, Jonathan Jones, Richard Bell, Vernon Ah Kee and Brook Andrew are broadly representative of the group of Aboriginal artists who are loosely grouped – for better or worse – as ‘urban’ Aboriginal artists.<sup>13</sup> These artists are some of Australia’s most accomplished contemporary art practitioners (white or black). They are part of an elite group of just a handful of artists who have either already represented Australia at the Venice Biennale (Moffat) or are likely contenders for that most prestigious of accolades in the near future. Significantly, just as they all speak English as their first language, they all make art in the Western visual art language taught at Western art schools, rather than pursuing collective forms of art-making that value continuity and group-ownership characteristic of pre-settlement Aboriginal art (Bell is the exception in that he is a self-taught artist). These ‘urban’ Aboriginal artists pursue innovation, embody the ethos of the artist as an individual auteur, and make their art for Western forums such as galleries, magazines, museums and biennales. That is, they create art that is ‘commensurable with the practices of the dominate hegemonic order’ (Willis and Fry, 1988 p. 7). Harold Thomas, as Australia’s first Aboriginal visual arts graduate, foregrounded these Western-taught Aboriginal artists’ careers, who are perhaps best understood as ‘intercultural’ practitioners (Altman, 2005). Moffat, Foley, Jones, Bell, Ah Kee and Andrew have all – at certain periods of their careers – consciously framed their practices as Aboriginal artists. Andrew and Moffat, later in their careers revised the way they frame their art, seeking to be identified beyond their ethnicity simply as contemporary artists (Kleinert and Koch, 2012 p. 4). Regardless of how these artists seek to be categorised as artists, they have all explored Australian Indigenous identity and their works of art all make powerful statements on their people’s colonisation. In totality, their practices ‘investigate the politics of aesthetics’, and they seek to act as powerful forces of decolonisation. The critical distinction to make, however, is that these artists seek to make social and political art, not activist art. That is to say, in the first instance, they seek to make good art within Western frameworks, rather than

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<sup>13</sup> As noted by Laura Fisher, the ‘moniker urban Aboriginal art endures despite being heavily disputed’ (Fisher, 2016 p. 9). Thomas, since the 1970s has self-identified as an ‘urban black’, as stated in an informal unrecorded conversation with the author on the 27 June 2016.

seeking to make art that brings about social change. Whether their work has affected social change, or changes in attitudes towards Indigenous Australians, is unclear and up for conjecture, as is the far more contentious question of the work's autonomy within assimilationist frameworks (Willis and Fry, 1988 p. 14).

Richard Bell's most notorious and celebrated work, *Aboriginal Art – It Is a White Thing*, explores intercultural practice. The work is based on 'Bell's Theorem', a loose polemic he published the year before he created *Aboriginal Art – It Is a White Thing*. The work shocked and challenged the Australian art world when it was first exhibited in 2003 (Figure 2.3). Both the work and the polemic critique the white art world's structures and values and its control and exploitation of contemporary Aboriginal artists. I interpret *Aboriginal Art – It Is a White Thing* more broadly as providing a critique of the very foundation and *raison d'être* of both urban and remote contemporary Aboriginal art.



Figure 2.3: Richard Bell. *Scientia E Metaphysica* (Bell's Theorem) or *Aboriginal Art – It's a White Thing*. 2003. Acrylic on canvas, 240 × 540cm. Collection: Museum and Art Gallery of Northern Territory, Darwin.



Bell's critique is substantiated by anthropologist Fred Myers's reflections on Western Desert Papunya Tula painting production of the mid-1970s. As a young American postgraduate student, Myers lived with the Pintupi people at Yayayi outstation (42 kilometres west of Papunya) over a three-year period (1973–75):

The importance that wider Australians society has ascribed to Aboriginal painting far outstrips its significance within these communities. Not only did painting have a somewhat precarious existence for many years, but in contrast to the central position it has taken in public representation of Aboriginal people, it was rarely – if ever – the driving force of community attention as Aboriginal people saw it. The phenomenon of Aboriginal art was perceived by them to be 'owned' by white people, a kind of 'whitefella business'.

(Myers, 2007 p. 43)

Myers's account is significant because it concerns art production by a remote group of Aboriginal artists, and because it describes a period of cultural production that predates Bell's statements and works of art by 30 years. Whereas Myers later asserted that the 'authenticity' of the painting seems absolutely secure' (Myers, 2007 p. 45), his statement is a sobering counterweight to the hype that has 'sold' both remote and urban Aboriginal art production in the West. Creating painting on canvas was 'whitefella business' for Pintupi people, and its relative social importance was minor. Indeed, urban and remote area Aboriginal artists have to negotiate many seemingly unresolvable contradictions in their art practices. Once in the gallery or made with Western materials, Aboriginal art is 'already in Western clothes'; the status of institutionalised Aboriginal art, such as the *Aboriginal Memorial* and the new Aboriginal wing of the Australian National Gallery, is both 'other and of the establishment' (Geczy, 2012 p. 45).

### **Richard Bell**

Of all the aforementioned artists, Bell stands apart for his lack of formal training and for its origins in 'street'-based community activism. He defines himself as an 'activist who masquerades as an artist' (Bell, 2011). Keeping this claim firmly in mind, it can

be seen how Bell's art provides an illustrative case study of the concerns and issues of practices that sit at the intersection of art and activism.

Bell was born in the tiny central Queensland rural community of Charleville in 1953. He is a Kamilaroi, Kooma, Jiman and Gurang Gurang person. Part of his childhood was spent on the local mission reserve where he and his family lived first in a tent, and then in a corrugated tin shack. Along with his contemporaries, Foley, Anderson and Thomas, he became involved in the Aboriginal Rights Movement in the late 1960s and early 1970s. In the 1980s he worked for the New South Wales Aboriginal Legal Service and later began painting Aboriginal souvenirs for tourists as a way of earning a living. At this time, Bell says he was 'becoming a political 'inactivist' ... 'I was getting a bit tired of it. [Art] was offered an alternative to me' (Browning, 2012). Bell's job painting Aboriginal souvenirs for tourists served as an unconventional entry and launch pad for a career as a 'fine arts' practitioner. An acquaintance encouraged Bell to practise his activism through the institutions of Western contemporary art, claiming that by so doing he would be 'able to reach a much bigger audience than you can ever do by marching down the street' (Bell, 2011).

Bell's practice, like that of Moffat, Foley, Jones, Ah Kee and Andrew, has since explored the big colonial and post-colonial themes of Australian history: 'Invasion, displacement, violence, genocide, broken treaties, language loss, systematised racism, marginalization, and dispossession of Aboriginal communities' (Farley, 2011). To these issues he has acted as something of a 'megaphone' (Browning, 2012), always with the aim – in his own words – of bringing about a 'revolution ... in the thinking of Australians' (Browning, 2012). In becoming a visual artist, Bell discovered that the art world and, in particular, governmental funding organisations and institutions, as they have come to be structured since the early 1970s, support all kinds of creative practices, even those of people who seek to pursue political agendas. With characteristic good humour Bell has stated the benefits, as he sees them, of being a fine artist: 'I can express almost any issue, and not get arrested' (Farley, 2011). In contrast to his street-activist self, Bell the activist artist can apply for funding from various state and federal institutions and sell his 'art slogans' through commercial galleries in order to make a living. He has stated that his gallery, Milani, 'charges ridiculously high prices' for his art (Bell, 2011).

Bell has come to demonstrate great talent and skill as a contemporary artist and provocateur. Through art he has acquired fame, fortune and notoriety. Art has been good for Bell. A close look at his art practice, which effectively seeks to walk on both sides of the road, reveals many contradictions that cast doubt on the efficacy of his ‘revolutionary’ claims. Bell’s practice can be appraised with contrasting determinations depending on one’s art biases and philosophies. His social and political practice is either self-indulgent and ineffectual or, conversely, part of a nation-changing narrative. I contend that both these paradoxical readings of Bell’s practice are valid.

The critical distinction to make in regard to Bell’s practice is that his most powerful and insightful work *Aboriginal Art – It Is a White Thing*, in the first instance, relates to and critiques its art context, not issues that Aboriginal people face more broadly in life. An alternative iteration of this work, for example, might allude to Indigenous people’s endemic incarceration, poverty, poor health and low levels of education. Bell’s art effectively critiques the structures of Western art as being colonial and exploitative, yet he also continues to pursue his art career and to champion Western art frameworks as dynamic forums for activists. For example, in his interview with Rex Butler, he states that the art world represents ‘quite a large, powerful, and influential audience’ and that ‘[l]ike every revolution [it] has involved artists, so I am thinking that is not by accident’ (Bell, 2011). Bell makes many similar statements in his polemics, art and in interviews, few of which he substantiates with examples or facts.

The Australian art world is one of Australia’s most liberal, receptive and supportive communities for Aboriginal people and their culture. Neither racists nor Indigenous Australians make up its core demographic. Very rarely do issues relating to the art world or visual art receive coverage in mainstream Australian media. Some notable exceptions are Peter Dombrovskis’s iconic image *Morning mist, Rock Island Bend, Franklin River, south-west Tasmania, Australia*, which featured the 1983 federal election campaign, the 2008 controversy relating to Bill Henson’s sexualised images of children, and the dispute over Transfield Holdings’ sponsorship of the 2014 Sydney Biennale.<sup>14</sup> Of these three examples, only Dombrovskis’s photograph was a

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<sup>14</sup> Transfield at the time operated, at a profit, Australia’s offshore asylum seeking centres.

proactive activist work of art. Historically, few visual artists have played central roles in social revolutions.

Bell's 2009 work *Pay the rent*, which was acquired by the Art Gallery of New South Wales (AGNSW) in 2010, recites a familiar Indigenous refrain. Willis and Fry argue statements like 'Pay the rent' exhibited in institutions like the AGNSW, 'no matter how shocking, disturbing, bizarre or "transgressive", once designated and validated as art' are 'absorbed into a hegemony of difference as the same' (Willis and Fry, 2011 pp. 286-287). In other words, the artistic setting robs slogans like 'Pay the rent' of their power, weakening rather than strengthening their political cause. A close examination of the painting's composition reinforces Willis and Fry's critique. *Pay the rent* references both Western and Aboriginal art historical clichés in the form of Jackson Pollock's drip painting, Jasper Johns's *Target* and Western Desert dot painting (Figure 2.4). This juxtaposition, perhaps unwittingly, further trivialises the slogan, turning it into just another art historical reference. Institutionalised political Aboriginal art is located on the same level as Abstract Expressionism, high Modern and Western desert art – all represent periods and types of art. Bell's painting, *Pay the rent* as a type of art, or worst still, as a style of art (both clichés) (Griffin, 2008 p. 74), no longer has political agency (Demos, 2008 p. 99). The AGNSW has not been asked literally to pay the rent, or to return stolen Aboriginal land. Rather there is an unfortunate sense that Western institutions and non-Aboriginal individuals who purchase Bell's art are purchasing something akin to Catholic indulgences for their colonial sins. In this regard, Bell's white guilt indulgences could be critiqued for being pretty cheap.





Figure 2.4: Richard Bell. *Pay the Rent*. 2009. Synthetic polymer paint on canvas, 240 x 360 cm. Collection of the Art Gallery of NSW.

Bell's practice is illustrative of the need to differentiate between activist art and social and political art. A great gulf separates works like *Pay the rent* and the *Aboriginal Flag* in terms of their efficacy as activism. Both these works are art and have political themes, yet one passively adorns an art institution's wall, the other is omnipresent across the landscape as a powerful statement of Aboriginal land rights, sovereignty and black pride.

For activist artists, the visual art context might be compromised, but in Brenda Croft's view, in the face of many traditional political platforms being 'dismantled, devolved, erased', arts and cultural activism are one of the few 'avenues available to Indigenous people by which to make their/our concerns known' (Croft, 2012)<sup>15</sup>. Franca Tamisari illustrates this argument in his article 'Against Domestication: The Art of Encounter'. He documents how Michael Nelson Tjakamara and Fiona Foley have used their public works of art to further political agendas. In 1993, at the height

<sup>15</sup> I was unable to view the published article, Revolutionize me (and you, and you, and you) published in the exhibition catalogue *Decolonize me*. Croft kindly forwarded me her draft copy of the essay. Hence the absence of a page number in the citation.

of the controversy surrounding the Mabo High Court ruling, Tjakamara revisited his 1988 Parliament House mosaic to redefine ‘the political and legal meaning of his design as a title deed’ (Foley, 2006). Foley used her Brisbane Magistrates Court commission to create a memorial of Aboriginal massacres in Queensland – having initially masked its significance in her concept proposal (Haebich, 2006 p. 69). Whereas the effectiveness of these individual works of art as direct activism that brings about social change is debatable, an appraisal of Indigenous practice that takes a wide historical overview offers a less harsh evaluation of activist art practices.

Laura Fisher in her book *Aboriginal Art and Australian Society*, takes a sociological perspective on Aboriginal art that ‘entails looking at art as a forum of meaning making that arises through social relationships’, and that can be a ‘repository of cultural information that exceeds the intentions of the artist’ (Fisher, 2016 p. 2). Fisher draws upon the ideas of Robert Paine and Chris Healy to make the argument that the Aboriginal arts arena has come to represent ‘a surrogate state – a domain that can be radicalised and democratised and compelled to provide the Indigenous subject with the recognition that the actual state withholds’ (Fisher, 2016 p. 39). In the essay ‘Ethnodrama and the ‘Fourth World: The Saami Action Group of Norway’ Paine writes: ‘much of the Fourth World politics is about turning physical powerlessness into moral power and then putting that to good political account’ (Dyck, 1985 p. 190). In Australia, Indigenous peoples, who are denied constitutional representation, a treaty and meaningful forms of self-determination, have used just about every cultural and social platform available to them to assert their moral political rights. Protests like the Yirrkala *Bark Petition*; songs such as Bob Randall’s Stolen Generations anthem ‘My Brown Skin Baby They Take Him Away’ (1970); activist innovations such as the *Aboriginal Flag* and the Tent Embassy; Sally Morgan’s book *My Place* (1983); the *Aboriginal Memorial* (1988); and the use of humour in Bell’s art – to name just a few works that have transformed the moral political landscape of Australian race relations – these are all powerful de-colonising catalysts.

Chris Healy argues that Australia’s 1988 Bicentenary ‘celebrations’ – the meaning of which was effectively put to question by pan-Aboriginal protests – resulted in both a ‘mundane’ crisis of national identity and a ‘heritage vacuum’ (Healy, 2001 p. 279). Fisher and Healy document how the latter has been filled in the ensuing decades by government initiatives that encouraged the flourishing of Indigenous culture (Fisher, 2016 pp. 49-55) or by other political initiatives. Healy

documents the role played in this process by the Royal Commission into Aboriginal Deaths in Custody (1991); the High Court's *Mabo v. Queensland* (1992) and *Wik* (1996) decisions; the Human Rights and Equal Opportunity Commission's report *Bringing Them Home*; and the work of the Council for Aboriginal Reconciliation (1991–2000) (Healy, 2001 p. 285-7). Both Fisher and Healy argue that Australia's 'heritage vacuum' has been filled by a shared intercultural zone (Fisher, 2016 p. 49, Healy, 2001 p. 287). The evolution of the *Aboriginal Flag*'s broad meaning for the nation between 1988 and 2000 illustrates this change. At the 1988 Bicentenary 'celebrations' the *Aboriginal Flag* featured predominately as a protest flag. It occupied a space synonymous with slogans such as 'We have survived' that recast the 26 January as 'Invasion day'. At the Sydney Olympics, 12 years later, the *Aboriginal Flag* was flown – for the whole world to see – as an official flag of Australia, alongside the Australian flag, as a symbol of reconciliation. It is debatable as to which group – Indigenous or settler Australians – has most profited or gained from Aboriginal culture's resurrection as a shared part of Australia's national heritage narrative. Fred Myers and Faye Ginsberg describe the contemporary celebration of Aboriginal art as paradoxical because 'the wider conditions of their lives [Indigenous Australians], however, remain poor, and are in danger of further immiseration' (Ginsburg and Myers, 2006 p. 36). Beyond its use in this 'shared' space, Indigenous culture, such as the *Yirrkala Church Panels*, the *Bark Petition*, the *Aboriginal Flag*, the *Ngurrara Canvas* and *Karlamilyi*, has been, and continues to be, used in other novel ways that serve, in the first instance, the pressing political agendas of Indigenous Australians.<sup>16</sup>

### **The role of culture in Indigenous activism**

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<sup>16</sup> The *Aboriginal Memorial* (1998) is an interesting case study of an Indigenous work of art that has been used to further the agendas of both Aboriginal and non-Aboriginal Australians. Terry Smith's 2001 article 'Public Art between Cultures: 'Art between Cultures: The 'Aboriginal Memorial,' Aboriginality, and Nationality in Australia' is a good overview of its history. I do not list the *Aboriginal Memorial* alongside *Yirrkala Church Panels*, the *Bark Petition*, the *Aboriginal Flag*, the *Ngurrara Canvas* and *Karlamilyi* because this work, in its conception, public contexts and resolution, has its own history and meaning that are different from these key case studies. In its conception, the *Aboriginal Memorial* was curator-led, and it was conceived as counter-memorial; but it is also, according to Smith, a commodity, an artefact and a museum object (Smith, 2001). It has existed solely in Western institutions (1988 Biennale and National Gallery of Australia, where it is now on permanent display) (Smith, 2001).

To understand the correlation between ‘the politics of aesthetics and the aesthetics of politics’ in Aboriginal art, we need to contemplate the moment James Cook claimed the east coast of Australia for Great Britain. He marked the occasion with the raising of the British flag, the Union Jack, at Possession Island in the Torres Strait. At that moment on 22 August 1770, Aboriginal culture underwent a profound irreversible semiotic rupture (Haebich, 2006 p. 52). Its form did not change, but its context, and its potential purpose and meaning, did. In the process of becoming other to European culture, Aboriginal culture metamorphosed. From that day onwards, Indigenous cultural expression became potential symbolic forms of Indigenous resistance and activism against the onslaught of British cultural, social, spiritual and territorial colonisation: ‘the politics of aesthetics and the aesthetics of politics’ folded in on themselves and became one and the same entity. Aboriginal activists did not act upon this new semiotic reality until 1963, when the *Yirrkala Church Panels* were created and the *Bark Petition* was sent to the Australian federal parliament. In a sense, since 1770, the narrative arc of Indigenous Australians – the Dreaming, the laws, customs and culture of Aboriginal people, once the ‘ever Now’<sup>17</sup> – has been recontextualised into a very pressing, contemporary activist narrative of social and cultural survival.

The *Aboriginal Flag*, as with other forms of Aboriginal culture to this day, can only be fully understood within this paradigm. Beyond the ‘feel good’ propaganda of modern twenty-first century Australian multicultural society, Indigenous Australians and their culture are still subject to the ongoing forces of colonisation. This is an aspect of race relations in Australia that is either denied or remains poorly understood by non-Aboriginal Australians. Aboriginal culture is either a form or expression of Indigenous otherness, resistance and activism or a manifestation of colonisation in mainstream Anglo-Australian society. In the latter dynamic, that which is different, desirable, powerful or threatening – which forms a good description of the *Aboriginal Flag* – is folded into a homogenous whole. The decision in 1995 by the Australian federal government to proclaim the *Aboriginal Flag* an official flag of Australia is an example of these forces at work. By this act, the *Aboriginal Flag*, the flag of Indigenous Australians, became just another Australian flag.

In 1963, two years before Thomas went to art school, and nine years before he was to design the *Aboriginal Flag*, 13 clan leaders of the Yolngu region of the

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<sup>17</sup> As described by Kevin Gilbert in his 1994 poem ‘Songs of the Dreamtime’ (Noonuccal, 2008).

Northern Territory sent a *Bark Petition* to the Australian federal parliament (Figures 2.5 & 6). They were protesting Prime Minister Robert Menzies's announcement that the government was going to grant leases to mine bauxite on their ancestral lands. The *Bark Petition* is a critically important precedent for the *Aboriginal Flag*, for a number of reasons. It was 'the first traditional document prepared by Aboriginal authority that was recognised by the federal parliament, and is thus the first recognition of Aboriginal people and language in Australian law' (Noonuccal, 2008 p.5). The *Bark Petition* represents a powerful activist-art precedent in which Indigenous art was used to advance a political objective. It asserted that land rights originated from within the Yolngu people's cultural traditions and that these have autochthonous legitimacy. In a sense, all cultural practice serves this purpose: it defines a group's identity and their claims of sovereignty, and sometimes their land custodianship. Pre-European contact, the continent of Australia had over 300 Indigenous language groups – each had its own way of expressing their unique identities and culture. In the Sydney basin, initiated males of the Eora nation had their front-left tooth removed so as to be immediately recognisable as Eora people to all other rival Indigenous groups (Heiss and Gibson, 2017). In effect, parting one's lips to smile or talk revealed a small toothless Eora flag. With European contact, that cultural dialogue between Indigenous peoples shifted towards the new arrivals of the convict settlement. The dynamics of 'us' and 'them' shifted and all Indigenous groups found themselves on the same side of a much wider and more pressing conflict and threat.



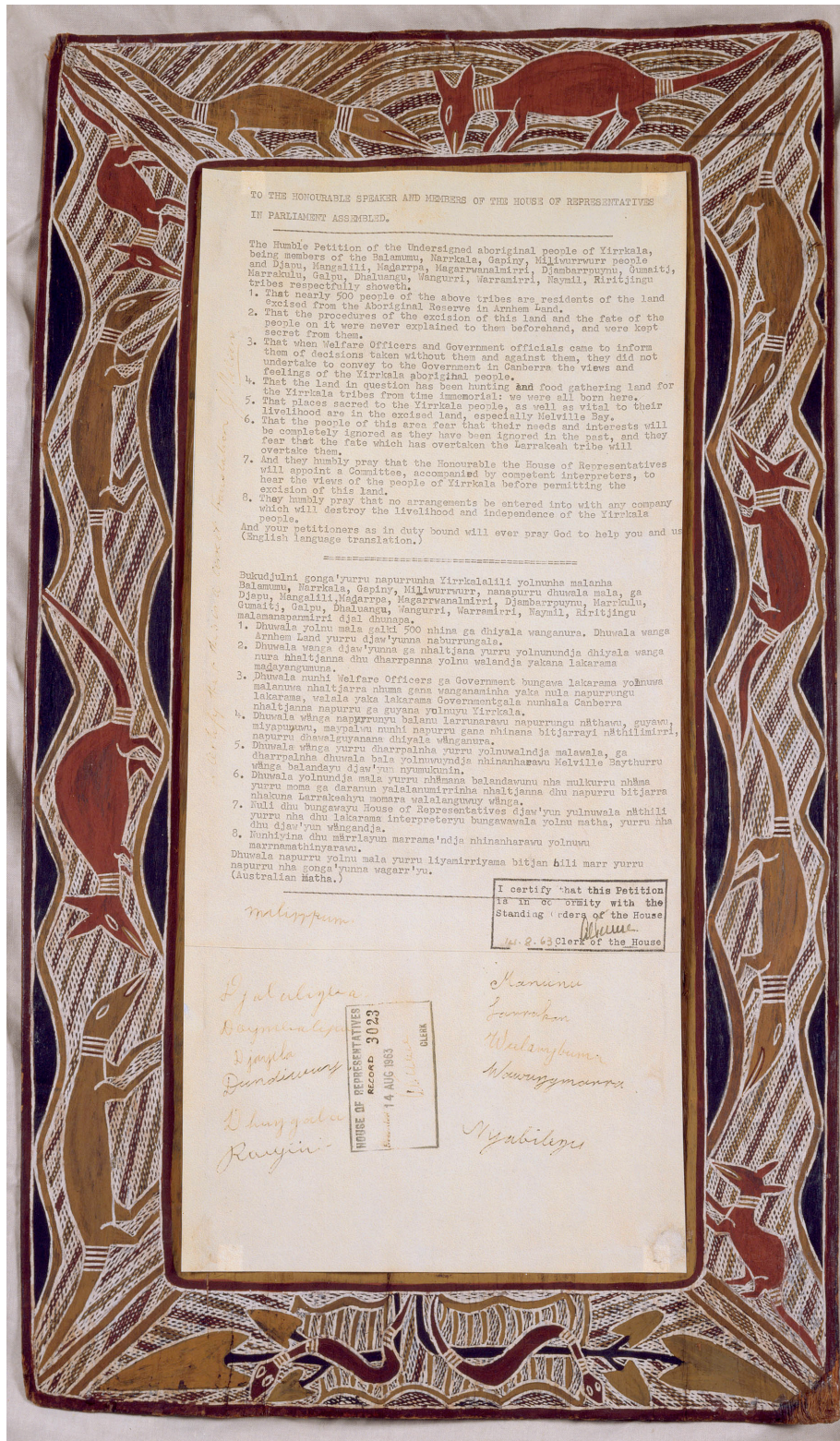


Figure 2.5: Clan leaders of the Yolngu region of the Northern Territory of Australia.

*The Yirrkala Bark Petition #1. 1963. Natural ochres on bark, ink on paper, 59 × 34 cm.*



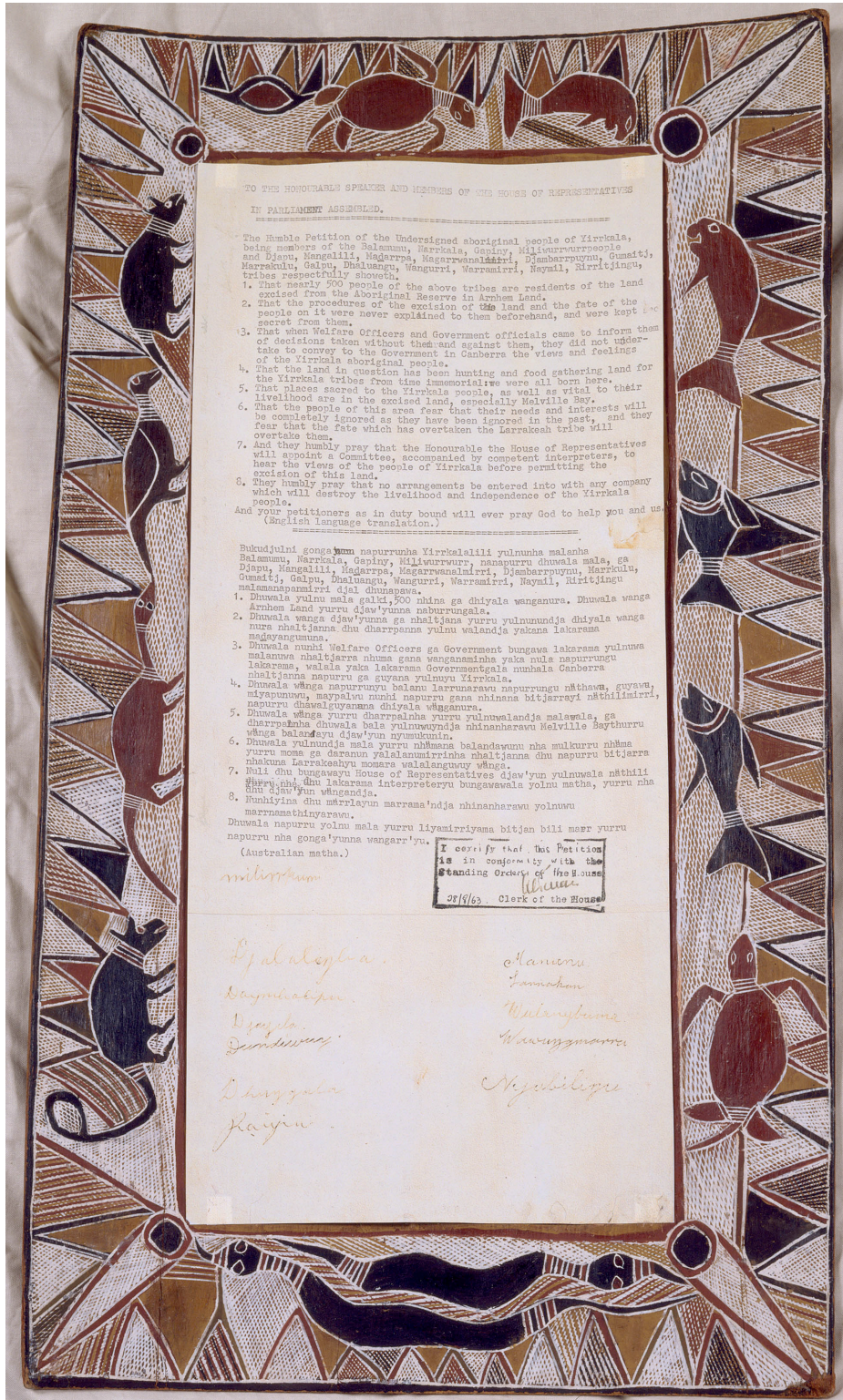


Figure 2.6: Clan leaders of the Yolngu region of the Northern Territory of Australia. *The Yirrkala Bark Petition #2. 1963. Natural ochres on bark, ink on paper, 59 × 34 cm.*

The *Yirrkala Church Panels*, the *Bark Petition*, along with the *Aboriginal Flag*, are some of just a few Aboriginal and Torres Strait Islander works of art that have overtly (in a dynamic public political framework) affirmed cultural rights to land and sovereignty. The lack of Indigenous cultural activist expression before the 1960s and 1970s activism perhaps reflects the effectiveness of British and later Anglo-Australian cultural suppression. In my 2014 interview with Anderson, he lamented Indigenous communities' lack of understanding of the legal authority and power of their culture. Our discussion is reproduced here in long form, to capture the full nuance of Anderson's significant statements:

**MA:** The Bark Petition is symbolic of the way in which we presented our material because ... we didn't have the written language. Where I come from we have the dendroglyphs [carvings on the trees] that tell our stories ... In terms of presenting any evidence, we had no idea of what writing meant, our old people had no idea, they had no idea of what the purpose of writing was, what it could do for you, its role in [Western] society ... [I]t wasn't until the Bark Petition that they realised the significance of presenting something in our style and of course our form of writing is in an art form.

**MG:** *Do you think that was an effective campaign strategy?*

**MA:** I think it's very important. [The] Bark Petition [is] consistent with our law and culture, which is now recognised in the common law of this country as a consequence of Mabo. I've been going around talking [with] communities about sovereignty. [People] bringing out all these old boomerangs and old boards that they thought were just patterns ... [I tell them: 'What] your great grandfather did ... the design ... that's your title to land, that's your Certificate of Title, because it's your law and culture connecting you to land, it's connecting you to the animals, it's connecting you to your totemism ...' [O]ur people still don't understand the significance of it to this day and art is a very, very valuable resource in terms of establishing our title ... They paint it for commercial reasons, they don't understand the political and legal authority that it has in terms of representing their titles.

**MG:** *Do you consider the Aboriginal Flag to be a work of art?*

**MA:** I think it's a work of art in the first instance.

(Anderson, 2014 p. 2)



With over 200 years separating the present day from the period of first sustained contact in 1788, Anderson's reminder that Aboriginal people 'didn't have the written language' is instructive. This fact alters the relationship and hierarchy of Indigenous visual culture in those societies' semantic structures. The absence of the noun 'art' in pre-settlement Aboriginal languages is not inconsequential. It represents an insight into Indigenous peoples' culture that alludes to art's broader roles and meanings. In the absence of written language, printing press, books, records and text-based structures of administration and governance (such as the Bible or a constitution), the role and significance of 'visual' art is greatly augmented (Fisher, 2016 p. 33). The semantics of pre-settlement Indigenous culture – markings on human flesh, animal skins, rock and wood, or 'sculptures' formed in stone, wood, sand and earth – take many forms. Some are representative (they literally depict recognisable forms such as people, animals, plants); others act as signs (indicative of the probable presence or occurrence of something else); whereas some are symbolic (an image of an animal could represent a person's totem or operate as religious iconography). Seemingly semi-abstract markings, such as cross-hatching characteristic of art from Arnhem land, 'identify the artist's country and totemic affiliations' (Wells, 1971 p. 75) through subtle stylistic variations. In the art of Yirritja artists (from Arnhem Land), diamond shapes filled with cross-hatching may signify several meanings:

the honeycomb pattern where the diamonds are almost square; the fire pattern where the diamonds are slightly elongated; running water when the diamonds merge one into the other in wavy lines; or the mortuary sign for a dead body if the short, crisp diamonds are arranged in a certain colour sequence.

(Wells, 1971 p. 47)

The *Bark Petition* contains these forms of 'language', the meaning of which, in the eyes of the Yolngu, represented a legal and religious document of great authority. Galarrwuy Yunupingu AM, a descendant of the petitioners, in his speech, 'We know these things to be true', for The Third Vincent Lingiari Memorial Lecture (1998), details this aspect of the *Bark Petition*:

Using traditional methods, they prepared a document which expressed the most important aspects of Yolngu law and society. The thirteen clans came together, negotiated what should be included, and set about preparing this painting which was unique and unprecedented. It could be likened to the Magna Carta of Balanda law [British Australian law] because it was the first time Yolngu had ever set our law down for others to see.

(Yunupingu, 1998b)

The *Bark Petition* is a hybrid document that consists of an Indigenous ‘frame’ depicting traditional relations to land and text in English and Gumatj languages. Yolngu leaders initiated the idea of a protest document being sent to Canberra, but they initially planned to send simply a Western-style petition (Morphy, 2007 p. 66). As recalled by Yirrkala mission superintendent, the Rev. Edgar Wells, the idea of the *Bark Petition* emerged from discussions between sympathetic Labor opposition members of Australia’s federal parliament, Gordon Bryant and Kim Beazley (senior), and the Yolngu leaders in 1963:

one morning during their visit he found the two MPs in the new mission church, admiring the freshly painted bark art boards which had been created specifically for the church. It was this that prompted Mr Beazley to advise the community to make a Bark Petition. He gave them the wording of the prayer required for a petition to be in order, so that it could be presented in the House.

(Wells, 1982 p. 79-80)

The much less well-known, but perhaps more significant, ‘bark art boards’, which came to be known as the *Yirrkala Church Panels* (they were in fact painted on masonite sheeting) were created by Yolngu artists in 1962–63. Ann Wells, author of *This Their Dreaming: Legends of the Panels of Aboriginal Art in the Yirrkala Church* (1971), states that the panels were created at the suggestion of the Rev. Edgar Wells, whereas Howard Morphy in his book, *Becoming Art: Exploring Cross-Cultural Categories*, states that Yolngu elder Narritjin Maymuru ‘suggested that the church should include panels of Yolngu artists’ (Morphy, 2007 p. 63) (Figure 2.7). Either way, their content and subject matter was, however, strictly determined by the 13

clans: ‘The artist of both moieties requested that no one question what they were painting until the panels were complete’ (Wells, 1971 p. XII). The two large panels, measuring  $3.6 \times 1.2$  metres, each representing one part of the two Yolngu moieties – Dhuwa and Yirritja – affirm through traditional means Yolngu religion, culture and law (Wells, 1971), and ‘[map] Yolngu rights in land’ (Government, 2017b). *This Their Dreaming* details the meaning of the 18 parts or sections of the two panels in over 70 exhaustive pages of text and illustrations – in their entirety, they form episodic creation narratives reminiscent of *Genesis* in the Christian Bible: this is how the world and our culture and religion came into being. The panels were painted by 16 artists using ‘four earth colours of local stone and clay, prepared and applied as in the traditional way of a bark painting’ (Wells, 1971 p. XI). The paintings were created through a rigorous process: ‘The stories were checked and rechecked, previous notes often being read and commented upon, corrections made, and obscure word pictures clarified’ (Wells, 1971 p. XII). The *Yirrkala Church Panels* are the true ‘Magna Carta’ of Balanda law, whereas the *Bark Petition* is, as revealed by its namesake: first and foremost a petition (that refers to the *Yirrkala Church Panels* and all other Yolngu art). The *Yirrkala Church Panels* gave rise to the idea of the *Bark Petition* and they mark the beginnings of a revolution in Australian politics, race relations and Indigenous art activism, which would lead to the Gurindji Strike (Wave Hill Walk-Off) 1966, the 1967 Referendum to include Aboriginal people in the census, the *Aboriginal Flag* (1971), the Tent Embassy (1972), the *Aboriginal Land Rights Act (NT) 1976*, the Mabo decision (1992) and many other decolonising protests, campaigns, works of art, laws and gestures.

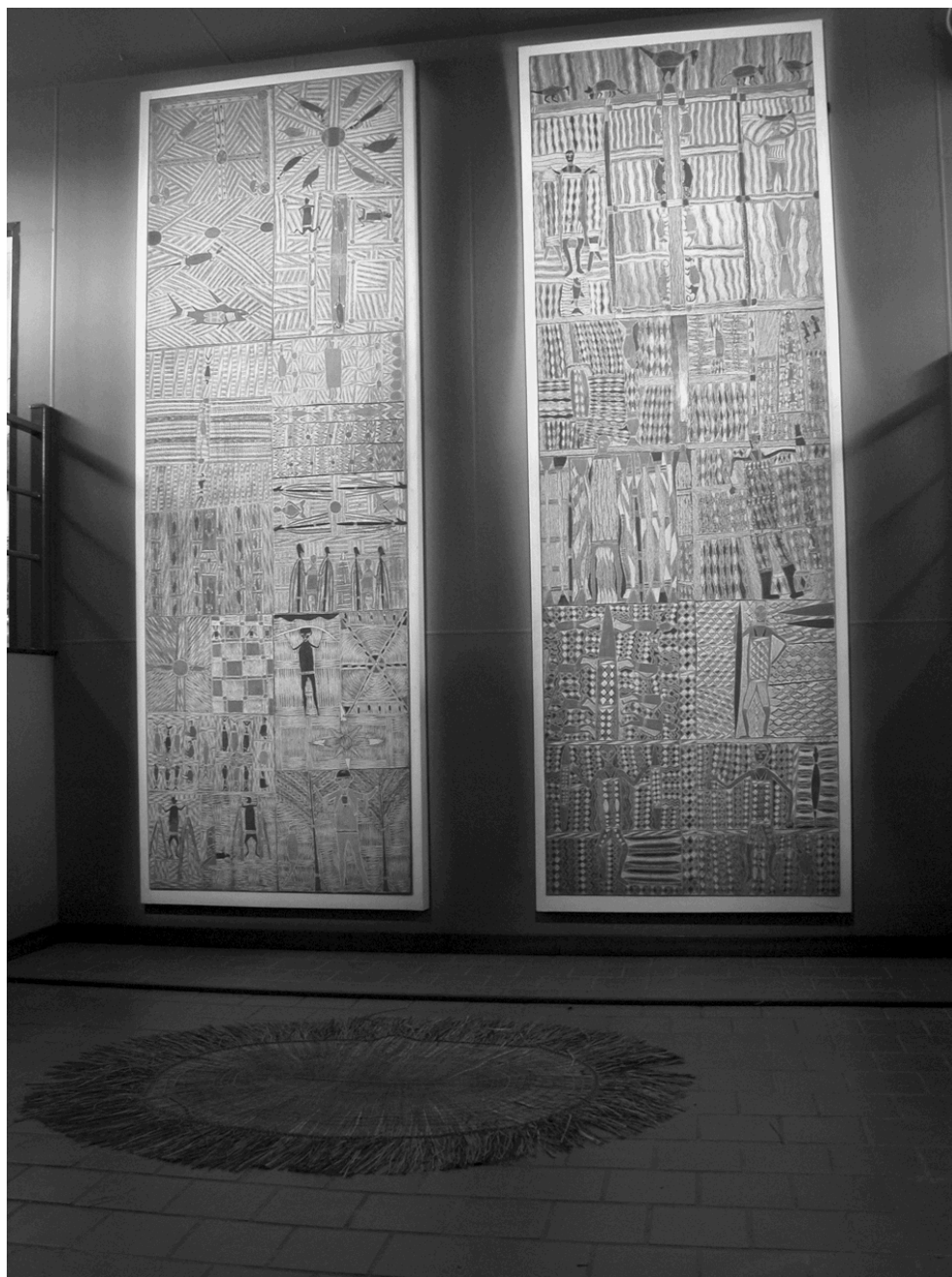


Figure 2.7: Clan leaders of the Yolngu region of the northern territory of Australia. *The Yirrkala Church Panels*. 1962–63. Natural ochres on cement board, 300 x 500 cm.

As argued by Anderson, in the context of Australia’s colonisation, Indigenous art is highly political. This is what the *Yirrkala Church Panels*, the *Bark Petition* and the *Aboriginal Flag* reveal – in the absence of a written language Indigenous peoples affirm their religion, culture and law, and ‘map’ rights in land’ through their art (Biddle, 2012 p. 33, Moulton, 2016 p. 28). This is the traditional way, and since Mabo it has become one of the ways that Indigenous Australians uphold their legal rights in Australian law. For example, in a well-documented case, over 50 senior traditional

owners of the Great Sandy Desert of northern Western Australia, created a massive painting as part of their ultimately successful native title claim in 1997 (Figures 2.8, 2.9, 2.10). The *Ngurrara Canvas* was presented as evidence of the group's ongoing connection with their land. Elders explained the painting's respective meanings and claims through a translator, and also sang and danced on the canvas before the tribunal (Fisher, 2016 p. 32-33). Ironically, many of the paintings purchased since the 1970s that were produced by remote area Aboriginal artists – and which adorn Australia's great public, political, cultural institutions and the residential homes of the affluent upper classes – are title deeds 'maps' that assert ownership of land.



Figures 2.8, 2.9, 2.10: Ngurrara artists and claimants, coordinated by Mangkaja Arts Resource Agency  
The *Ngurrara Canvas*. 1997. 1000 x 800 cm. Photo: Mangkaja Arts Resource Agency.



The *Ngurrara Canvas*. 1997. Above left: Hitler Pamba and Nada Rawlins completing the Warla section of the *Ngurrara Canvas* at Pirini, May 1997. Photo: K. Dayman. Above right: Nyirlpirr Spider Snell explaining the *Ngurrara Canvas*, 2005. Photo: Ngurrara Artists Group. Above images sourced: [http://www.nma.gov.au/exhibitions/ngurrara\\_the\\_great\\_sandy\\_desert\\_canvas/home](http://www.nma.gov.au/exhibitions/ngurrara_the_great_sandy_desert_canvas/home)

In a not very well-known case, that significantly involved claims to land between Aboriginal language groups, Amy French and her sister Lily Long of the Western Desert also used art to articulate their custodianship rights and responsibilities. When French and Long found themselves ‘lost’ and marginalised in their own country in 2011, their intuitive response was not to write a polemic, contact their local MP or call their lawyer; rather they created a vast painting, *Marlamilyi*, that states, ‘It is my country, Warnman country, it’s inside me, the country’ (Figure 2.11) (Carty, 2012 p. 31). Across the Western Desert, traditional systems of land custodianship between Martu, Warnman Putijarra, Kartujarra, Manyiljara language groups or clans have been disrupted by colonisation and ‘new regimes of recognition’, such as native title, government funding and consultations (Carty, 2012 p. 32). In this context, French and Long felt the need to ‘push back’ against the dominant Martu people who had questioned their rights to country. In one of her statements, Amy French makes it clear who is the intended audience of the work: ‘This is my father’s land. I didn’t hide this painting, I painted it so I can show which is my father’s country. I showed it to Martu people so they will understand which country we belong



to' (Carty, 2012 p. 33). Through their painting, *Marlamilyi*, French and Long demonstrated their intimate knowledge of the Western Desert:

We painted our homeland. We did this together. We are doing the story for this big painting.

The big running river is Karlamilyi, the biggest one. It keeps going until it becomes a lake we call Nyaalyikankarra at the top end and Kunamara at the bottom.

The painting takes in the creek and the back to the junction, Lalapukujarra. It goes to the edge of Lake Dora and comes along the edge of the range, Jurrurpa. It runs all the way to Lake Dora, down to Raarki and Tiwa and back to Parnngurr. In the middle is the mountain range and the place along the river there are Pinartipartujarra, jartangarra, Puljaljia and Kunti Kunti.

The Hills in the centre are Mukutu, Marrpu and Tiwa. Turning west it goes all the way down to Pungkulyi and north-west towards Kalaya Kalaya. Emu Range. In the middle it goes around Parnngurr and to Wilnakurujunu.

(Carty, 2012 p. 31)



Figure 2.11: Amy French and Lily Long. *Marlamilyi*. 2010. Acrylic on canvas, 300 x 500 cm.

In the *Yirrkala Church Panels*, the *Bark Petition*, the *Aboriginal Flag*, the *Ngurrara Canvas* and *Karlamilyi* (and many other similar works of Indigenous social and political art), the politics of aesthetics and the aesthetics of politics are one and the same. These works of art uphold Indigenous sovereignty in all its forms (cultural, social, religious, legal) and assert the autochthonous legitimacy of Aboriginal people's land rights. 'The painting are the country, the country are the songs, the songs are the dance, it's not all separate, it's all the one thing connected'<sup>18</sup> (Carty, 2012 p. 5). These select works are all at once quite remarkably, the 'language', sign, medium and *raison d'être* of Indigenous art activism. They possess a rich and potentially powerful politically semiotic structure that sets them apart from Western or Indigenous political art. Critically, these works were made for forums other than the institutional structures of Western art. The *Yirrkala Church Panels* were created for a church, the *Bark Petition* was sent to the Australian federal parliament as a petition and the *Aboriginal Flag* is displayed as a flag on public buildings. Both the *Ngurrara Canvas* and *Marlamilyi* paintings, in the first instance, prior to their being hung in galleries and celebrated as art, were created to assert rights to land. Although these public forums are still Western constructs and institutions, significantly they are not art world constructs and institutions. This important difference sets these works apart from the political art of Moffat, Fiona Foley, Jones, Bell, Ah Kee and Andrews, whose work is extensively created for exhibition in Western institutional contexts and forums like galleries and biennials. Thus, works like the *Bark Petition* sidestepped the political limitations some argue are inherent to the art world: principally, its ability to absorb and neutralise dissent. These considerations are critical to Indigenous political art that seeks to act like activist art and bring about social change. Alone among these works of art, only the *Aboriginal Flag* has fully enhanced the full potential of Indigenous art semiotic structure and meaning. It alone can be said to have brought about social change.

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<sup>18</sup> Morika Biljabu translating for Martu women painters of the Ngayatra kujarra (Lake Dora), at the Adelaide festival.



## Deadly

The *Aboriginal Flag* represents, in a compelling, dynamic and iconic manner, the political, cultural and spiritual views of Indigenous Australians. Here in lies one of the most important lessons of the *Aboriginal Flag* as a work of activist art.

Thomas, as an Aboriginal activist artist, articulated the views of his constituency in his flag design. It is this often abstract or neglected relationship that is one of the key foundations of successful activist art. It is a relationship that is mirrored in David McDiarmid's gay and AIDS art activist practice and Peter Dombrovskis's environmental art photography. All three artists were *partisan* to an activist movement. Thomas was able draw upon his life experience and knowledge to express his Aboriginality in a profound way that resonated with his constituency. As an Aboriginal involved in a broad Aboriginal social, activist movement, Thomas had an 'army' of highly motivated fellow Aboriginal activist 'volunteers' ready to champion his creation. In this sense, activist art's success is contingent, and relative to the strength of both the author's and the work's relationship to its social or political constituency. This explains why the great majority of social and political art does not go beyond the art world, and why it is ineffective in bringing about social change: it lacks the resources of a sustained campaign driven by passionate constituents. It is like a vehicle with no fuel in the tank. Critically, for the *Aboriginal Flag*, the issues (black pride, Black Power, land rights, sovereignty and self-determination), the constituency (Indigenous Australians), the campaign and the work of art were aligned. Nine other characteristics of the flag enabled it to go viral and become a successful work of activist art. Each of those characteristics is deeply instructive for the activist artist, as they reveal the structures of one successful model or approach to activist art.

The *Aboriginal Flag* is both ancient and contemporary in its cultural references and visual language: it is *of* one era, but *for* all eras. This is an aspect of the flag that Thomas emphasised himself in ABC Radio National's *Dimensions in Time* interview:

When I look carefully at what the Aboriginal Flag looks like, it comes from the simplicity and power of Aboriginal art itself. Simple colour, choice of colour, and a simple design. It's powerful, and the colours are important. And it took some time to think about it – Red ochre, the red soil – the country of Australia is all red.

(Thomas, 2002)

The *Aboriginal Flag* is simple to read – yet its meanings are complex. This is difficult to achieve in any medium, but critical for activist art, a genre of art-making that seeks to reach the widest possible demographic. Thomas's design is simple, easily understood, immediately recognisable and rich in cultural layering and meanings. Its iconic qualities enabled a wide (non-art) audience to understand the work's meaning and ideas. The language of some contemporary social and political art (be it a site-specific installation, a video or a durational collaboration) is foreign, confusing and alienating to non-art audiences, who are not privy to its semiotics. The *Aboriginal Flag*, as a flag-based work of activist art, side-stepped traditional, often ineffectual (for activism), art world structures that usually promote art such as galleries, museums, magazines and books. The flag is inspired in its conception and design. This point is not to be underestimated; if Harold's design had not been universally acclaimed as a brilliant design, it would never have had the successes it has enjoyed. Anderson reinforced this point in his interview statement: 'I think everybody was taken by the colours, they were pretty stark, they were pretty much there' (Anderson, 2014 p. 10). The flag cost very little to make. The prototype flag was made with affordable readily available materials and used established and accessible fabrication processes (fabric, rope, scissors and a sewing machine). In a similar vein, the *Aboriginal Flag* costs relatively little to reproduce as a flag, its design is easily transferred to other mediums (such as t-shirts), and it is easily reproduced by flag enthusiasts (as graffiti art). The *Aboriginal Flag* sits between the mediums of flag insignia and activist art. In this position, it has been able to sequester the European cultural tradition of flag insignia. In this respect the *Aboriginal Flag* is the great Trojan Horse of Aboriginal activism: it is on permanent public display on most Australian public buildings – a truly remarkable achievement. Finally, the *Aboriginal Flag* is small enough to hide in your pocket. Every activist understands that is a great asset for 'guerrilla' actions, and potentially a life-saving quality in awkward moments with adversaries! (A good activist tip is to be mindful not to confuse your activist flag with your hanky, a mistake that is common especially in winter when many activists catch colds). At the 1994 Commonwealth Games this characteristic enabled Cathy Freeman to easily take the flag to Canada, and at the opportune moment – once she had secured gold – reveal it to a massive television audience of 600 million people.

Freeman's partner and manager, Nick Bideau, was reported in Sydney's *Daily Telegraph* (25 August 1994) as stating that 'the *Aboriginal Flag* wasn't going to see the light of day if she had been beaten'.

Treating the *Aboriginal Flag* as a case study discloses this broader idea: activist art brings about social change. A gulf exists between the majority of social and political works of art (that have short lives in art galleries and in the vivid imaginations of artists) and the *Aboriginal Flag*, in terms of their visibility and historical significance. This gulf is so great that it can be a struggle to view the polar ends of both types of social and political art as belonging to the same broad category of art. Nevertheless, the *Aboriginal Flag* and many other less successful works of social and political art, in their genesis, shared the same aspirations. At first glance, the decision to make activist art would seem to represent a small step or shift in thinking and strategies from social and political art. In practice, as revealed by the *Aboriginal Flag*, the political intentions were the organising principle of the work in all its aspects, not only in regard to its 'form' and its 'content' but also in its 'mode of production and circulation' (Fraser, 2004 p. 215). Critically, when Thomas conceived the *Aboriginal Flag*, his primary intention was to bring about social change relating to Indigenous land rights, sovereignty and black pride. Thus, he decided to make his work a flag, not a watercolour painting, the medium that has characterised much of his practice. The 'flag' medium of the *Aboriginal Flag* conceptually reinforces the aims of Indigenous activism (it asserts Indigenous sovereignty and land rights), and it has many qualities (symbolic, cultural, economic and formal) that make it a powerful activist tool. Thomas's *Aboriginal Flag* is something of a 'perfect storm' work of activist art. Its great success can in part be attributed to its multi-faceted dynamic nature: iconic, simple, affordable, transferable and income generating – it does it all. It sets an extremely high standard that even highly successful works of activist art can only hope to emulate in parts. The *Aboriginal Flag* is an exemplary work of activist art.

## 3

**The International Black Power Movement and the *Aboriginal Flag***

At the Tent Embassy in early 1972, three flags each articulating quite different interpretations and visions of Aboriginal activism were flown. One was a version of the Pan-African flag created in 1920 by the Universal Negro Improvement Association led by Marcus Garvey, another was a flag designed by a Nowra activist, and the third was Harold Thomas's flag. The history of the three flags at the Tent Embassy locates the *Aboriginal Flag*, and more broadly Indigenous activism, within the international Black Power movement. That history affirms that Australian Indigenous activism did not emerge in isolation. It was responsive to, and influenced by international social and political movements that recast the politics of race relations the world over in the twentieth century. The particular qualities and meanings of Thomas' flag, and its resolution, resulted in it becoming Indigenous Australia's definitive symbol. These qualities, and the flag's selection by unspoken consensus, reveals much about the premises, values and goals of Indigenous activism; and the scope and limitations of the international Black Power movement's influence on Aboriginal activism in the early 1970s. In this chapter, some of the quotes act as Indigenous testimonials to Indigenous history. They give voice and precedence to Indigenous perspectives and oral traditions.

In the early 1970s, Harold Thomas, Gary Foley and Michael Anderson were all in their early 20s representing an emerging generation of activists who were to influence Australia's race relations at a young age. Throughout the initial six-month period of the Tent Embassy action, Anderson, then 24 years old, was appointed the Embassy's first Ambassador to Australia. Thomas, a year older, had the previous year created the *Aboriginal Flag*. Foley, at just 22 years of age was crisscrossing the nation as a dynamic apprentice activist leader – championing nascent Aboriginal activists like Thomas, and sowing fear in the hearts of Anglo Celts with his wild and provocative declarations of martyrdom for the Black cause (Figure 3.1). These young radicals were mentored by the likes of more senior activists such as Bob Maza,

Oodgeroo Noonuccal, Don Brady, Faith Bandler, Bill and Eric Onus, Charles Perkins, "Chicka" Dixon, Bruce McGuinness, Sol Belliar, Patsy Kruger and Jack Davis and scores of other activists (Land, 2015 p. 44). Anderson, Foley and Harold were also inspired and emboldened by a new breed of aggressive and confrontational charismatic black leaders such as Muhammad Ali and Malcolm X, and organisations like the Black Panthers (Maynard 90, 2014). Anderson, Foley and Harold were enthusiastic participants in the great social upheavals of the youth-based counterculture movements of the 1960s and 1970s (Thomas, 2002).



Figure 3.1: Gus De Brito. Black Power. 22 February, 1972. Two page feature article in the *Daily Mirror*.

### The Tent Embassy

The design of Thomas's *Aboriginal Flag* predates the Aboriginal Tent Embassy by more than six months. Foley argues that 1971, the year the flag was designed, was a pivotal year in Aboriginal activism in Australia:

The twelve months of 1971 were to be the most dramatic in recent indigenous history as a series of events and actions rocked the Australian government and significantly strengthened the emerging Black Power movement in Redfern.

(Foley, 2001)

Key events of that period included the opening of the Aboriginal Medical Service of Redfern (1970), the Gove land rights case and the rugby Springboks tour of Australia (1971). The latter was met with strong opposition from a new alliance of Aboriginal and white Australian anti-apartheid activists that resulted in Aboriginal protest marches, and a dramatic increase in their media visibility (Foley, 2001).

Following the NT High Court ruling that put an end to the Yolngu people's near ten-year Gove campaign for land rights, the McMahon government in early 1972 outlined its ongoing opposition to land rights. Based on months of work by a 'Cabinet committee', the government in their wisdom, concluded that the granting of land rights had the potential to:

introduce a new and probably confusing component, the implications of which could not clearly be foreseen and which could lead to uncertainty and possible challenge in relation to land titles elsewhere in Australia which are at present unquestioned and secure.

(McMahon, 1972)

In other words, land rights for Aboriginal Australians was unacceptable because it could potentially 'challenge' the basis of 'secure' landownership in Australia, which at the time was the almost exclusive domain of non-Aboriginal people. The government's alternative proposal put forward a new form of lease for land for which Aboriginal individuals and groups could apply. General purpose leases were to be rented to Aboriginal people and be subject to review every ten years. Lands such as 'government or mission community areas' where many Aboriginal people lived, could not be leased under the plan. As with other leases, 'mineral and forest rights' would remain the preserve of the crown (McMahon, 1972).

The timing and content of McMahon's policy statement, the day before Australia day, the most contested day on the Australia calendar for many Indigenous Australians, is a measure of the government's insensitivity towards Aboriginal people and their concerns at the time. The speech, some five years after the 1967 referendum fell dramatically short of the expectations of Aboriginal activists across Australia. Oodgeroo Noonuccal (formerly Kath Walker), one of the leading Aboriginal referendum campaigners was so disillusioned by 1969 that she claimed that the massive Yes vote brought no benefits to Aboriginal people but merely 'eased the guilty conscience of white Australians'. In her opinion Aboriginal people had been mere 'stooges of white Australians working in the interest of white Australians' (Walker, 1969 p. 6). Sydney based activists immediately organised a protest on the lawns outside Parliament House in Canberra leading to the six-month-long Tent Embassy protest (Foley, 2014a p. 22). Anderson, is the sole surviving member of the original group of four Tent Embassy activists, who drove from Sydney to Canberra on the night of the 26 January 1972. Together with Billy Craigie, Bertie Williams and Tony Coorey he pitched a beach umbrella on the lawns of Parliament House at one a.m. in the morning on the 27 January and initiated one of the most creative and dynamic activist campaigns in Australia's history (Figure 3.2).



Figure 3.2: Image shows Tent Embassy activists Billy Craigie, Michael Anderson, Bertie Williams and Tony Coorey on the lawns in front of the then Federal parliament. 26 January 1972. Source:

<http://www.kooriweb.org/Foley/images/history/1970s/ustrip/pxdx.html>. Date and photographer unknown.

The collection of essays edited by Andrew Schaap, Edwina Howell and Gary Foley, titled *The Aboriginal Tent Embassy, Sovereignty, Black Power, Land Rights and the State* provides an excellent contemporary overview of the Tent Embassy action, and more broadly the dynamic events of that period. It was not until 1992, some 20 years after the event, that non-Aboriginal ANU Masters of History student Scott Robertson wrote the first formal recorded history of the Tent Embassy. As such, the records of events of the protest on the lawns of the then parliament house are incomplete and represent sometimes conflicting versions (Robertson, 2013 p. 3). There is considerable disagreement, for example, about the conception of the Embassy protest, with several groups claiming the idea (Robertson, 2013 p. 5) (Anderson and Gifford, 2013 p. 118-120). The book's cover features a picture of the Tent Embassy in Canberra in 1972, which is flying two flags – neither of which are the *Aboriginal Flag* we recognise today (Figure 3.3). In his contribution to the same collection of essays, Foley describes the genesis of the first two flags:

On 2 February, the Embassy activists, in part to emphasise the sense of alienation the Embassy represented, as well as underlining their assertions of Aboriginal sovereignty, set about designing and flying their own flag. The first flag that flew on the tents was a black, green and red pennant which was the flag developed fifty years earlier by Marcus Garvey as the symbol of his international black consciousness movement. Later in April, it was joined by another comprising a spear laid across a red and black background with four crescents looking inward to symbolise the black rights struggle from four corners of Australia.

(Foley, 2014a)

Foley's statement strongly suggests that in the early 1970s, the creation of an Aboriginal flag was inevitable.



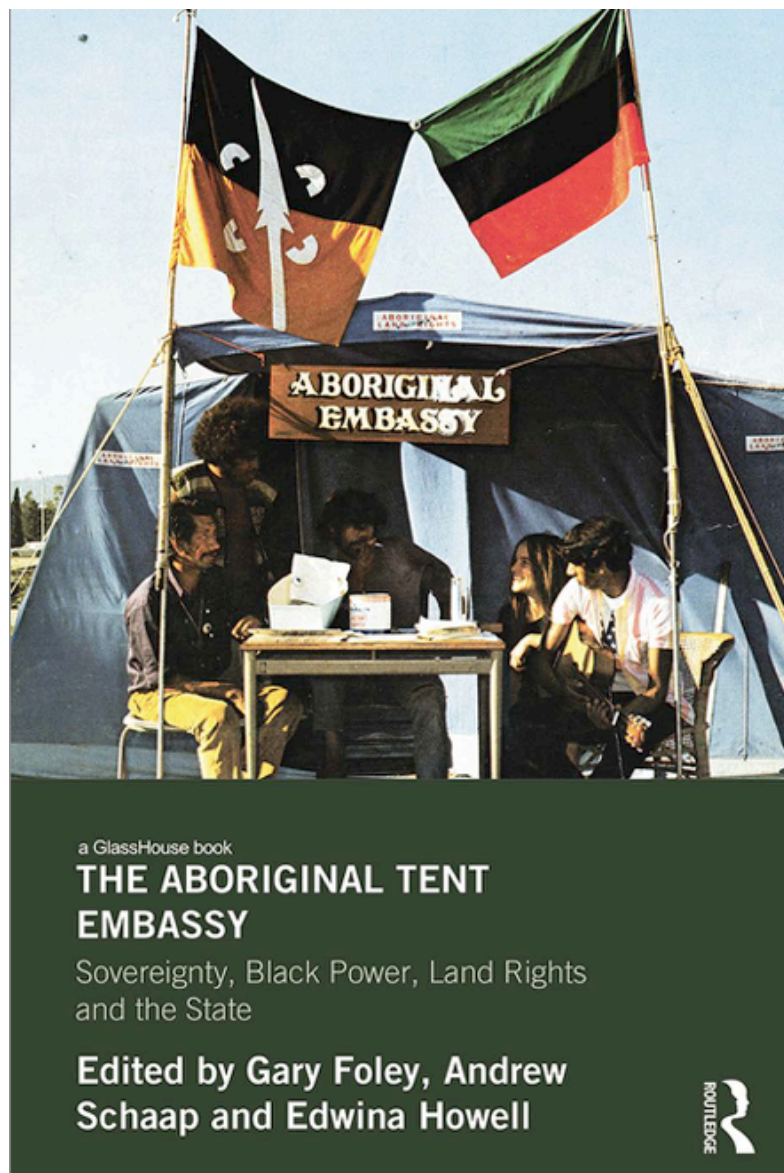


Figure 3.3: Book cover. The Aboriginal Tent Embassy, Sovereignty, Black Power, Land Rights and the State. (Foley et al., 2014). Date and photographer unknown.

In his contribution to *Aboriginal Tent Embassy: Sovereignty, Black Power, Land Rights and the State*, John Maynard notes that the Tent Embassy flag had an ‘uncanny’ resemblance to the Pan-African Flag. Both flags share the same colours and format, although their colours are in a different order (the Pan-African Flag is red on top, black in the middle, green on the bottom). Maynard describes the deeper historical roots of the Pan-African flag, which, as Foley correctly states, can be traced back to Marcus Garvey (1887-1940), the father of black activist consciousness. Born in Jamaica, Garvey founded the Universal Negro Improvement Association in 1914,

which sought to instill ‘race pride, cultural pride, pride in history and strong connection to country’ (Maynard, 2014). The Association established its base of operations in New York City, and by 1920 it had over 1,900 divisions in 40 countries. The organisation’s communications platform *The Negro World* (launched in 1917), was a weekly newspaper printed in several languages that came to have a global circulation of 500,000 copies (League, 2017). In the lead up to the first month-long Universal Negro Improvement Association international convention to be held at Madison Square gardens in August 1920, members of the association created the Pan-African flag. During the convention, which was attended by 20,000 delegates, the Pan-African flag was adopted formally as the Universal Negro Improvement Association’s official flag, as part of the convention’s Declaration of Rights of the Negro Peoples of the World. The Pan-African flag (which has also been called the Universal Negro Improvement Association flag, the Afro American flag and the Black Liberation flag) is a tri-color flag consisting of three equal horizontal bands of (from top down) red, black and green (Figure 3.4). The Universal Negro Improvement Association’s current website states that the flag’s three colours represent: Red: the blood that unites all people of Black African ancestry, shed for liberation; Black: The black people whose existence as a nation, though not as a nation state, is affirmed by the existence of the flag; and Green: the abundant natural wealth of Africa. Garvey’s own interpretation of the flag’s colour symbolism (as recorded by Journalist Charles Mowbray) is somewhat different: Red: because of sympathy for the Reds of the world; Green: their sympathy for the Irish (in their fight for freedom); Black: [for] the Negro (League, 2016). Clearly the flag’s abstract composition leaves it open to interpretation. Throughout the twentieth century the symbolic meaning of the flag has evolved, reflecting each era’s biases and political agendas. All the flags discussed in this chapter however, share a commonality in that they use the colour black to signify black people.



Figure 3.4: Universal Negro Improvement Association. Pan-African flag. 1920.

### **A Black Minstrel Song**

The Pan-African flag was in part a response to a very popular black minstrel song written in 1901 by two white men, Will Heelan and Fred Helf, called *Every Race Has a Flag but the Coon*. Blackface minstrelsy was the most popular form of music ‘comedy’ in the United States during most of the nineteenth century. Since its beginnings in the 1830s, minstrel performers were predominately white people who painted their faces black and embellished their derogatory acts with exaggerated racist stereotypical African mannerisms and props such as big white lips and worn clothes (Figures 3.5, 3.6). Black Minstrel performance was practised predominately in the United States of America and the United Kingdom until the late 1960s (in the USA) and the late 1970s (in the UK). ‘Every Race Has a Flag but the Coon’ was one of three songs that firmly established the term coon in the American vocabulary, another being ‘All Coons Look Alike to Me’ which was composed by Black songwriter Ernest Hogan (1896.). Songs such as these are illustrative of racist attitudes (and their complex social and cultural terrain) in the nineteen and twentieth centuries, and form a framework for understanding the emergence of Black Pride flags in the twentieth century. ‘Every Race Has a Flag but the Coon’ lyrics pour scorn on the growing Black Nationalist movement:

The leader of the Blackville Club arose last Labor night  
 And said, "When we were on parade today  
 I really felt so much ashamed, I wished I could turn white  
 'Cause all the white folks march'd with banners gay

Just at de stand de German band  
 They waved their flag and played 'De Wacht am Rhine'  
 The Scotch Brigade each man arrayed  
 In new plaid dresses marched to 'Auld Lang Syne'  
 Even Spaniards and Sweeds, folks of all kinds and creeds  
 Had their banner except de coon alone  
 Ev'ry nation can brag 'bout some kind of a flag  
 Why can't we get an emblem of our own?"

Chorus:

For Ireland has her Harp and Shamrock  
 England floats her Lion bold  
 Even China waves a Dragon  
 Germany an Eagle gold  
 Bonny Scotland loves a Thistle  
 Turkey has her Crescent Moon  
 And what won't Yankees do for their Red, White and Blue  
 Every race has a flag but the coon

He says, "Now I'll suggest a flag that ought to win a prize  
 Just take a flannel shirt and paint it red  
 They draw a chicken on it with two poker dice for eyes  
 An' have it wavin' razors 'round its head

To make it quaint, you've got to paint  
 A possum with a pork chop in his teeth  
 To give it tone, a big hambone  
 You sketch upon a banjo underneath  
 And be sure not to skip just a policy slip  
 Have it marked four eleven forty four

Then them Irish and Dutch, they can't guy us so much  
 We should have had this emblem long before"

Repeat Chorus

(project, 2017)

The song's opening verses note the emergence of Black nationalism laying the comic foundations for the latter verse's racist 'humour'. The song succinctly references many popular stereotypes of African Americans that had currency at the time: their lack of courage as a race (as chickens), their alleged tendency to steal, be violent and gamble. These lyrics reveal how 'humour' was used to further subjugate African Americans and the cruel disingenuous rationality of that process: displace millions of African people over four centuries of trans-Atlantic slavery, then mock them for being stateless and lacking in national pride. Marcus Garvey's response to 'Every Race Has a Flag but the Coon' was solemn and practical. He would create a flag for the Pan-African movement to be proud of: 'In song and mimicry they have said, "Every race has a flag but the coon." How true! Aye! But that was said of us four years ago. They can't say it now ...' (League, 2016).



Figure 3.5: Photographer unknown. Image shows high school minstrel show, Livermore High School, California. 1954.

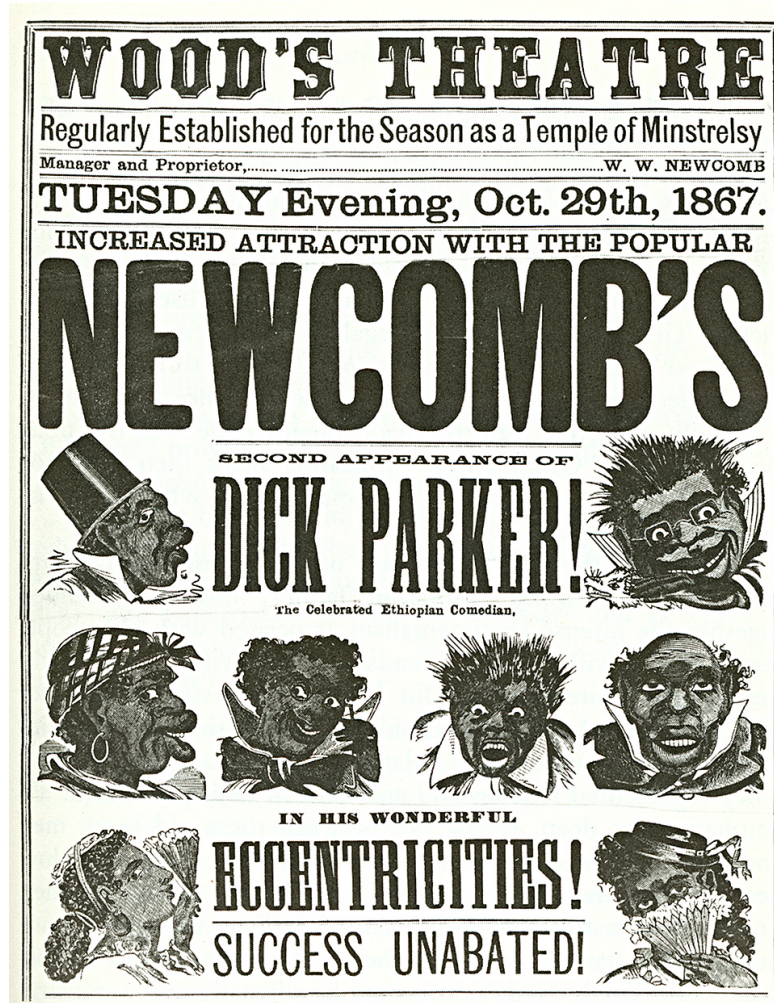


Figure 3.6: Advertisement for Minstrel Show troupe at Wood's Theater. 1867.

### Sonny Charles and the Checkmates

The mystery of the Pan-African flag flown at the Tent Embassy would be solved some 42 years after the initial Tent Embassy action. Upon the publication and global distribution of the book *Aboriginal Tent Embassy: Sovereignty, Black Power, Land Rights and the State*, an American student of black activism wrote to both Maynard and Foley querying the similarities between the two flags. Maynard and Foley's subsequent research led them to Anderson. As a young man, Anderson lived in Redfern, Sydney, Australia's then largest Aboriginal community. In the early 1970s, Redfern witnessed an Indigenous cultural renaissance, and was the centre of Australian Black Power activism. Anderson, through his involvement in the Foundation of Aboriginal Affairs, led by Charles Perkins, was involved in organising



concerts and dances for young members. Occasionally, visiting African American performers and bands would agree to give free concerts for the Aboriginal community, as an expression of solidarity with the nascent Australian Black Power movement. In my 2014 interview with Anderson, he recalled his conversation with the bandleader of Sonny Charles and the Checkmates (Figure 3.7):

I sat down with this fellow called Sonny Charles ... He said: well, you know, you've got to think about this, what we're doing. And he pulled out a book ... that's the Pan-African flag ... it's an international flag of connecting of the black liberation movement around the world (Figure 3.4).

(Anderson, 2014 p.6)

Two years later, at the Tent Embassy, Anderson had what he describes as a moment of 'epiphany' that inspired him to link the Australian Black power movements with Black Power struggles around the world. He bought material, thread and needle and:

bloody sewed this [Pan-African] flag together ... I sewed it by hand and I flew it and I thought this is a symbolism of our association with this worldwide movement of black liberation around the world. Nobody took notice of it really. They all saw it flying there but they never understood the significance. And nobody bothered to ask me about it.

(Anderson, 2014 p.7)

Having only briefly seen the Pan-African Flag in Charles's book, Anderson mixed the order of the flag's colours, placing the green band on top, instead of at the bottom (Figure 3.8). For Maynard, the story confirms an 'indirect and powerful spiritual connection with the Aboriginal political movement of the 1920s and their link to Marcus Garvey's Universal Negro Improvement Association'.



Figure 3.7: Sonny Charles and the Checkmates album cover. 1969.



Figure 3.8: Michael Anderson. A version of the Pan-African flag. 1972.

The 1920s marked a period of crisis for Indigenous Australians. Their numbers fell to their lowest since white settlement. The Australian Bureau of Statistics estimates that just 72,000 Aboriginal people, down from a pre-settlement number of between 300,000 to over one million people, survived colonisation (Statistics, 1994)



(Statistics, 2008). The 1920s also marks a point when Aboriginal people first formally demanded self-determination and when they first made formal contact with black activists in America. Tom Lacey as Secretary of the Australian Aboriginal Progressive Association (AAPA), wrote to Garvey in 1924 outlining the AAPA's nationalistic agenda and detailed some of the challenges Aboriginal Australians faced including 'tight government and church control' over Australia's remaining 60,000 Aboriginal people (Maynard, 2014 p. 92). Aboriginal people first formally demanded self-determination in 1925 at the inaugural Aboriginal civil rights convention held in Surry Hills, Sydney, initiated by the (AAPA), and attended by over 200 representatives from across New South Wales. The AAPA was inspired to hold a convention following the success of the Universal Negro Improvement Association international convention held five years prior in New York. In Maynard's view 'The Kempsey conference [held in 1925 after the Surry Hills conference] remains as a high-water mark in the history of organised Aboriginal political protest' (Maynard, 2007 p. 71). The conference's agenda was wide-ranging and included papers on land, children, education, housing, health, employment and the need for Aboriginal self-determination.

In 1970 the political and cultural links between Aboriginal Australians and American Black activists was re-affirmed and formalised. Bob Maza (then president of the National Tribal Council), Bruce McGuinness (then co-director of the Aborigines Advancement League), Sol Bellear, Patsy Kruger (then Victorian president of the Aborigines Advancement League) and Perth poet Jack Davis (then public relations officer of the Aborigines Advancement Council) were invited to attend the Pan-African conference in Atlanta, Georgia, USA (Figure 3.9). At the conference, the Australian delegates attended lectures on land economics, labor, housing, political liberation, social organisation, Black culture, religion, education and communication. Foley asserts that the American conference occurred at a critical moment in the 'philosophical development of the Black Power Movement in Australia'. It was deeply influential not just on the attendees, but on an Australia-wide community of Black Power activists (Foley, 2015). The conference received significant press coverage in Australia and America (Foley, 2015).



Figure 3.9: Image of Bob Maza, Bruce McGuinness, Sol Belleair, Patsy Kruger and Jack Davis attending the Pan-African conference in Atlanta, Georgia, USA. 1970. C type photograph. Source: <http://www.kooriweb.org/Foley/images/history/1970s/ustrip/pxdx.html>. Date and photographer unknown.

Across the twentieth century, Black American activists, through their sustained civil rights campaigns demonstrated ways and means for Aboriginal Australians to assert their own political agendas in Australia. Aboriginal activists at times followed the cues of their Black American brothers and sisters and borrowed and adapted their strategies. The American Freedom Rides, launched in 1961 where followed by Australia's version in 1965. Arguably the greatest legacy Black Americans imparted to other minority groups across the world was the notion of Black Power itself, which embodied an ethos of courage, and strength of character in the face of racism and of minority persecution. Songs like *Every Race Has a Flag but the Coon* are testament to 'cruel disingenuous rationality' and the crippling power of racist and colonial agendas. In the arts, sport, politics and religion, Black Americans fought back and demonstrated conviction, skill, intelligence and courage – in America and in Sydney. In a serendipitous twist of history Black American, Jack Johnson became the first black heavyweight boxing champion of the world when he defeated Tommy Burns before 20,000 white spectators in Sydney in 1908. The fight took place in Rushcutters Bay, walking distance from Redfern. Johnson's upsetting victory set shock waves around the world, rupturing white supremacist fantasies of their physical and mental

superiority. The Coloured Progressive Association of New South Wales, in a powerful gesture of solidarity, celebrated Johnson's blows to Tommy Burn's jaw by holding a farewell dinner in the great man's honor (Figure 3.10).



Figure 3.10: Photographer unknown. An image of the Coloured Progressive Association of New South Wales dinner to farewell Jack Johnson after his winning fight. 1907.

When asked about Marcus Garvey's influence on Aboriginal activism in Australia Anderson replied:

... when I met Bobby Stevens I sort of started reading some of his stuff. I stopped reading a lot of American paperwork and books because we had a very different struggle and our struggle was more akin to that of the Native Americans as opposed to African-Americans.

(Anderson, 2014 pp. 7-8).

Despite their shared experiences, goals and friendship, great social, cultural and historical differences differentiate the Black Power movements of the USA and those in Australia. Significantly, in the USA, Civil Rights was dominated by African Americans, not indigenous American Indians, and hence forth, Civil Rights, not Land Rights, dominated the America movement agendas.

### **The Nowra flag**

Very little is known about the third flag that was also flown at the Tent Embassy. It was created by an activist from Nowra, a coastal community located on the southeastern coast of New South Wales, just three hours drive from Canberra. Neither Nowra's Local Aboriginal Council, nor Elders from the community whom I contacted seeking information, were able to impart any further knowledge about the flag's author, the flag's whereabouts or its meaning. The 'Nowra' flag has three parts. The half circle shapes, or 'crescents' that symbolise Indigenous struggle from the four corners of Australia, the two horizontal bands of colour – black and yellow (or perhaps yellow ochre), and the white spear (Figure 3.3). The latter is the dominant feature of the Nowra flag. It is safe to assume that it symbolises defiance and resistance; confrontation and war against forces of colonisation and black repression. The representation of the spear sets it apart in both tone and agenda from the other two Tent Embassy flags which do not allude to Aboriginal people's conflict with or their colonisation by either the British or Australian governments. The Nowra flag reproduces, and thus reinforces, Anglo-centric hegemonic power relations within its symbolism. As a result, the Nowra flag asserts a less confident and independent cultural identity than either Thomas's or Anderson's flags. Furthermore, unlike Thomas's flag, the Nowra flag does not reveal fundamental precepts of Indigenous cosmology and identity (such as Black people's connection to their land) that stand separate and independent of Aboriginal people's colonial relations. These ideas are further elaborated in the following Chapter 4.

### **Black**

All three flags consist of horizontal strips, and all feature the colour black. The latter as per Thomas's flag, is placed above the red earth colour strip, and above the red strip in Anderson's flag compositions (Figure 3.8). This order of colours and the choice of the colour black is significant. All three flags attribute similar significance to the colour black in their symbolism (Black people, Black pride and Black Power). As noted earlier, Anderson confused the order of the colours of the original Pan-African flag in his version of the Pan-African flag, so his flag's colours were in the same order as Thomas's flag (black over red). Perhaps unconsciously or otherwise,

Anderson recognised the logic, in an Australian context, of Thomas's order of colours in his flag (that assert Black people's connection to the red land). As such, by intent or happenstance, Anderson's Pan-African colours represent a truly Australian-Indigenous version of the Pan-African flag. Anderson was present at the demonstration in Adelaide in July 1971 when Thomas's flag was first flown. Six months later he created his version of the Pan-African flag.

The Tent Embassy was punctuated by three set piece confrontations with the police. It was not until the final action with police in July, that Harold's flag made an appearance. Anderson states that the 'Adelaide mob brought it up' and that its resolution won over the activists: 'I think everybody was taken by the colours, they were pretty stark, they were pretty much there ...' (Anderson, 2014 p. 10). The adoption of Thomas's flag as the pan-Aboriginal flag was never formally voted upon, rather it was adopted by a process of informal consent: 'I think everybody associated with it because it was used in every land rights march and so it became the symbol of land rights' (Anderson, 2014 p. 11). The flag's pan-Aboriginal adoption was facilitated in Anderson's view because 'it wasn't the ... standard of any group or tribe' and because his version of the Pan-African flag, and the 'Nowra' flag were 'just sew-ons, they were little short ones, they were not the regular standard size flags'. They were easily overlooked in favour of Thomas's version of the *Aboriginal Flag*. To this day, Anderson regrets that the Nowra flag was never made into a 'proper flag' 'because that's the Aboriginal Embassy flag' (Anderson, 2014 p. 10).

The *Aboriginal Flag* arrived in Canberra fully conceived and formatted in standard flag proportions and size, looking like a fully legitimate pan-*Aboriginal Flag*. That said, all three flags had their 'airing' in the court of public opinion. Anderson's claim that Thomas's flag was adopted simply because of its size underestimates the different meanings and agendas of each flag, and the conscious and unconscious process by which the Indigenous activist community in Canberra selected a flag to represent their struggles. Conceivably activists from all over Australia recognised the shortcomings of both the Nowra and Australian-Indigenous Pan-African flags. They appear to have recognised the limitations of the Nowra's flag confrontational and colonial framework, and in the Pan-African flag, they saw a symbol of global Black struggle that did not speak to the many unique contexts of the Aboriginal Australian struggle such as land rights.

The arrival of Thomas's flag at the Tent Embassy represents a decisive moment in Aboriginal activism in which the central themes of the Indigenous struggle (land rights, self-determination, sovereignty) formed into dynamic symbols that recast the politics of race relations in Australia. At first sight, the *Aboriginal Flag* won over Aboriginal people from across Australia – its resolution had a momentum all of its own (Anderson, 2014 p. 10). Via word of mouth, print media and television, a few flags became tens of thousands of flags, and each of those flags reclaimed their part of Australia for Aboriginal people. Indeed, it is hard to conceive of a more opportune political and social moment than the Tent Embassy demonstration to launch a black pride and land rights flag in Australia's history. A number of dynamics were at play. The Tent Embassy drew, unified and focused Indigenous leaders from across Australia together in one place around the political objectives of Indigenous sovereignty and land rights. Thematically, the Tent Embassy and the *Aboriginal Flag* were closely aligned, the former being a compelling expression of land dispossession, the latter a powerful affirmation of Indigenous sovereignty and land rights. The resolution of Thomas's flag gave weight to the sophistication of Indigenous activism. Likewise, the Tent Embassy action turned the structures, the 'language', and the gravitas of international diplomacy on its head and articulated to the world the rupture at the centre of Australian race relations – Indigenous land dispossession. In both these instances, Indigenous Australians demonstrated their particular talent for creating symbols to articulate their activist agendas (as explored in Chapter 2), a feature of their activism that reflects the central role of culture (particularly visual arts culture), in their activism.

## 4

**Land Rights, *Terra Nullius* and Sovereignty**

That unique and powerful document [the 1963 Bark Petition]<sup>19</sup> was taken to Canberra, along with our sacred objects and symbols. And we were told that the government could not help us. We had given them the secrets of our law and they still refused to act. This was heartbreaking for the Yolngu; this was betrayal; and this was *terra nullius* in operation. It was clear that our law was invisible, and that the only way to fight the Balanda [white Australians] was using Balanda law.

(Yunupingu, 1998a)

*Always was, always will be: Aboriginal land* is a common Indigenous refrain. These words speak to a profound rupture in Australian race relations. Indeed, non-Aboriginal Australians cannot deny that the land always has and always will belong to Aboriginal people, yet the reverse is also now true. Within this riddle lies a series of complicated contested issues that entangle Australian race relations. *Terra nullius* is a profoundly determinate doctrine that has shaped the social fabric and culture of Australian race relations – the *Aboriginal Flag* repudiates its conceits. Sovereignty has different meanings to Aboriginal and non-Aboriginal Australians in contemporary Australian society. For Indigenous Australians sovereignty has dual meanings. It represents the legal framework of their historic and continued subjugation by both the British crown and the Australian government, and it has come to represent – as symbolised by the *Aboriginal Flag* – a perceived means and vehicle for self-determination. These topics relate to the central unifying platform of Indigenous activism in Australian: land rights.

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<sup>19</sup> (Figures 2.5, 2.6)

## Land rights

In Harold Thomas's words the *Aboriginal Flag's* composition represents the 'black people's connection to the red land' (Thomas, 2002). It describes the relationship of people to land, land to culture, and culture to identity. By association the *Aboriginal Flag* claims and affirms Aboriginal land rights, with which it has been closely associated since its adoption as the pan-Aboriginal flag at the Tent Embassy in 1972 (Anderson, 2014 p. 11). Understanding the *Aboriginal Flag's* agency in that campaign – over decades – is, however, hard to determine.

The terms *terra nullius* and sovereignty have only relatively recently gained popular currency and agency in Australia. *Terra nullius* was an obscure legal term known only to a few experts until it became the focal point of an intense national debate that accompanied the passing of the Mabo legislation in 1992 (Reynolds, 1996 p. 1). Sovereignty gained agency with the publication of Henry Reynolds's book *Aboriginal Sovereignty* in 1996; since then, the centrality of the term to Indigenous social and political thinking has grown. The term's Indigenous meanings are explored in Larissa Behrendt's 2003 publication *Achieving Social Justice* and again in the 2007 collection of essays edited by Aileen Moreton-Robinson titled *Sovereign Subjects*. By contrast, land rights, the central platform and slogan of Indigenous activism has waned in significance since the 1980s. This is not to assert that land rights is no longer the over-arching goal of Aboriginal activism, but rather to contend that its demand has been in part appeased by the passing of land rights acts across all states and territories, as well as being derailed and sometimes granted by native title processes resulting from Mabo and Wik. Significantly, native title relates to individual language groups and their ability to affirm their continued connection to country. Thus it encourages an idea of Aboriginal land rights and identity that is language group and area specific, as opposed to being pan-Aboriginal or state based. In Wellington New South Wales, some members of the local Wiradjuri community were the first to submit a native title application after Mabo in 1994. Their claim has fractured the local community of traditional owners and remains unresolved and was abandoned in 2016 (Macdonald, 2012 pp. 32-33).

In 1972, the *Aboriginal Flag* and the Tent Embassy were thematically closely aligned. While the former is a powerful affirmation of Indigenous identity, sovereignty and land rights, the latter is a compelling expression of land dispossession



(Norman, 2015 p. 19). In just a few years after the initial Tent Embassy action, land rights demands had their first victories with the handing back of land to the Gurindji people of the Northern Territory and the passing of the 1976 Northern Territory Lands Rights Act. With the benefit of hindsight, however, the genesis of these victories is more firmly rooted in the groundbreaking actions and campaigns that predate both the Tent Embassy and flag. The Bark Petition (1963), the near decade-long Wave Hill strike (1966) and general Indigenous political mobilisation of the 1960s and early 1970s lay their principle claim in the ensuing land rights victories. By the time the flag was launched into the public domain at the Tent Embassy, land rights activism already had considerable momentum. The omission of a discussion of the *Aboriginal Flag* in relation to land rights activism in New South Wales in Heidi Norman's book '*What do we want?': A political history of Aboriginal land rights in New South Wales* reinforces this argument. Both the flag and the Embassy, by the force of their resolution, added weight to the campaign; the latter, critically bringing the issue of land rights to the steps of the Australian parliament.

The role the *Aboriginal Flag* came to play in land rights activism is illustrated by the 1982 Shoalhaven case study described in detail in Chapter 6. The Council for Aboriginal Unity, in the build up to the passing of the 1983 NSW Land Right Act, encouraged all 177 councils across New South Wales to fly the *Aboriginal Flag* for a single day: National Aborigines Day. In response to this call, after a series of provocations and counter-provocations, the mayor of Shoalhaven, Greg Watson burnt the *Aboriginal Flag* claiming it represented a threat to social unity. The Shoalhaven case study reveals that the *Aboriginal Flag*, for both the Aboriginal and non-Aboriginal community, represented the contested issue of Aboriginal land rights. This incident took place a decade after the Tent Embassy action and before Indigenous activism came to be also framed by other issues such as calls for sovereignty. The Shoalhaven case study suggests that the *Aboriginal Flag* had emerged as the central symbol, focus, and flash point of land rights activism in the 1980s (the Tent Embassy was not operational for much of the late 1970s and early 1980s).

In Shoalhaven and across the state and nation in the early 1980s the flying of the *Aboriginal Flag*, for a single day, represented a very significant symbolic first step of acknowledgment, at community level, of myriad Aboriginal issues including: Aboriginal survival, Aboriginal claims of separate cultural identity in contemporary Australian society and their claims of rights to land, to name just a few. Across this

period of considerable transition in Australian race relations, the *Aboriginal Flag* had the advantage of being one step removed from face-to-face confrontation. It gave 'voice' to Indigenous Australians who were emerging from a long period of enforced social, economic and political silence. In short, flying the *Aboriginal Flag* represented a small revolution in non-Aboriginal community attitudes in the 1970s and 1980s. The *Aboriginal Flag* was an important symbol and vehicle of land rights activism.

### ***Terra Nullius***

When Justice Brennan of the high court of Australia, handed down his deliberations on the historic Mabo case he described the doctrine of *terra nullius* as a 'fiction' that was 'unjust and discriminatory' (Brennan, 1992 pp. 29-30). Aboriginal people exist. Their representative, Eddie Mabo, was miraculously present before the court as a native title plaintiff. Despite this, the legal foundation of Australia's colonisation, British crown and Australian sovereignty is to this day still based on *terra nullius*. As Henry Reynolds states: 'British colonisation began in the belief that the [Australian] continent was largely uninhabited' (Reynolds, 1996 p. ix). When the entire continent was found to be inhabited 'the advantages of assuming the absence of people were so great however that the legal doctrine continued to depict occupation of a *terra nullius*' (Reynolds, 1996 p. x). The doctrine *terra nullius* enabled in British and then Australian law the taking of the land and the imposition of British sovereignty over Aboriginal people. The squatters, soldiers, missionaries, pastoralists and colonial government all colluded to achieve this goal. In their minds, the process of taking the land necessitated the total subjugation of Aboriginal people (Gallois and Macdonald, 2012 pp. 10-16). To sign treaties, to preserve sacred sites, to set aside lands for the continuation of Aboriginal cultural practices, and most significantly, to acknowledge independent Aboriginal sovereignty would have compromised the colonisers' desire for all the land, and anything else they wanted to take from Aboriginal people. Colonisation, particularly as it relates to land ownership, is state sanctioned theft. In Australia, British colonisation took a particularly absolute form. By contrast, during the eighteen and nineteenth centuries, the British signed hundreds of treaties with Indigenous peoples the world over (Behrendt and Porter, 2012 p. 53). The 1840 Treaty of Waitangi, for example, recognised Maori land ownership and sovereignty, and in doing so established the legal premise for the ongoing negotiation of shared

land use, still in force to this day. The Treaty of Waitangi is now considered the founding document of New Zealand. Since 1974, it has been celebrated with an annual public holiday – *Waitangi Day*. Its symbolism is very different from that of Australia Day. By contrast, Australia is the only commonwealth nation without a treaty or treaties with its first nation people (Reynolds, 1996 p. xii).

It is important to grasp that British colonisation represents the wholesale theft of all forms of Aboriginal property. Of all the treasures that have been plundered, the land, the continent of Australia, the resources and wealth it contains, was and remains the central prize. Historical records reveal that the colonialists also stole Aboriginal children, took and raped Aboriginal women (Gallois, 2012 pp. 7-8) and forced Aboriginal people to work in slave-like conditions or for minimal wages (Australia. Parliament. Senate. Standing Committee on and Constitutional, 2006). The colonialists have also, at will, raided sacred Aboriginal burial sites, taken Aboriginal artifacts, stolen Aboriginal body parts, appropriated their culture without seeking permission, and when they decided it suited them, stolen Aboriginal identity. In 1957, Australia's most well-known and celebrated Aboriginal person, Albert Namatjira was forced, against his stated will to become Australia's first Aboriginal citizen (French, 2002a p. 19). In 1995, the *Aboriginal Flag* was made an official flag of Australia by the Keating Labor government, in effect commandeering its symbolic meanings. This was done against the wishes of Thomas (Towers, 1996a).

The taking of the land shaped the legal precepts of colonisation and just as significantly, their social relations as well. The British in part justified their relations with Indigenous Australians by conceiving of them as 'stone age survivors' and 'a dying race' (Curthoys, 2000 p. 25, McGregor, 2011 p. xvii). They adopted the attitude that if a few still existed, it would not be long before 'nature' took its course. Surviving Aboriginal people soon came to represent an obstacle, a problem and a source of shame for the colonising British. As documented in articles written by the early colonists that were published in Sydney's first newspapers, some British people reacted aggressively towards surviving Aboriginal people. Others felt shame about their maltreatment. One such letter addressed to the editor of the *Sydney Gazette* in August 1824 from the warring Bathurst region of New South Wales proclaims that 'Every true friend to the Aborigines must desire that they should be made to learn, by terror, those lessons which they have refused to acquire under a milder discipline' (Figure 4.1). By contrast, the same newspaper a few months later published a letter

from an anonymous author from the colony's then furthest outpost, Wellington New South Wales, that laments the 'murder' of a 'simple, innocent and unoffending' people in a war of 'extermination' (Figures 4.2).

<p>However outrageous the aborigines may have comported themselves in the neighbourhood of Bathurst, it is no less authentic than wondrous that the same natives are on terms of perfect amity with our prospering Settlement at Wellington Valley. While Bathurst, with its surrounding vicinity, is engaged in an exterminating war, peace reigns around the smiling and ever verdant valley of Wellington—so much for the powers of contrast. For the last twenty months constant intercourse has existed between the aborigines and this settlement, and it has invariably been found that those miserable wanderers are susceptible of kind treatment; and in return for the mildness shown, they have never given cause to regret the favorable opinion entertained <i>there of their simple, innocent, and unoffending manners.</i> The authority from whence our information is derived, for the accuracy of which we pledge ourselves, in the language of unaffected commiseration, enquires—“If humanity is outraged on the part of men who are, <i>in name,</i> Christians,—can it be expected that the <i>untutored</i> heathen will tamely submit to see his <i>parent, brother, or friend, murdered?</i> which was the case in the first commencement of hostilities at the Judge's station;—what else could be expected from savages?—aye, from men more enlightened than savages? but that a spirit of retaliation would actuate them on the impulse of the moment. Those men who went out on horseback to hunt them down, indiscriminately firing at all they could overtake, had no <i>parent, friend, or brother's death</i> to revenge!” The information further states that the poor objects often visit Wellington Valley with gunshot wounds, in order to obtain relief by getting them dressed! “Just Heaven! (says the writer) it is horrible to think, that, at a moment when all the civilized world is united for the abolition of the (abominable) slave trade, that even one man could be found cruel enough to think it necessary to exterminate the whole race of these poor misrepresented people.” The Commandant has repeatedly been miles away from the settlement, and alone, but no violence ever offered to his person;—on the contrary, affection and gratitude were found, beyond a doubt, to possess <i>THEIR savage bosom!</i> From</p>	<p>the information in our possession, we have no hesitation in affirming, with utmost confidence, that Wellington Valley is one of the most adapted places, in all Australia, for the immediate work of a determined and laborious Missionary. The fields are white unto the harvest. If affection and gratitude are even now the inmates of their untutored bosoms, what would not the Gospel be speedily capable of effecting? If they could only once be brought under the meliorating influences of Religion—civilization would be the pleasing result; but, from all we have heard, and what we have read, it is useless and absurd in attempting to civilize nations in order to conform them to the principles of Christianity. Let the Gospel be preached to them in their own tongue—let a man of God sally forth as a Brainerd, an Elliot, or a Mayhew have done, with his life in his hand—one who despises all earthly comforts—one that feels the necessity of walking by faith—let such an one only venture on the experiment, and, as in all other parts of the once heathen world, those present misrepresented savages will soon be enlisted under the banners of Christianity, and become peaceful, happy, and prosperous subjects of HIS BRITANNICK MAJESTY. Who would not laugh, most heartily, at the relation of a stranger frequenting Great Britain, with the view of informing the inhabitants of that blest Island of some important intelligence, but that, in order to their becoming benefitted thereby, they must all be instructed in <i>his language!!</i> Is it likely, therefore, that any material advantage can possibly accrue to the aborigines of this immense Island, by teaching a few of their children the English language, although such an effort is undoubtedly of the most beneficent description?—An answer is unnecessary. To return to Wellington Valley.—Three men were lately despatched from the Settlement on discovery, with a cart containing provisions, upwards of 100 miles in a northern direction. The men fell in with tribes innumerable, each comprising several hundreds, and, on all occasions, kindness was the prominent feature of their character, in return for that which they experienced. We decline saying any more, at present, on this subject.</p>
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Figure 4.1: Author unknown. *Sydney Gazette*. 14 October 1824.

**To the Editor of the Sydney Gazette.**

THE BATHURST BLACES.

Sir,

Beyond the Blue Mountains we have 41 000 acres of located land, 83 000 sheep, 15 000 horned cattle, and about 300 horned cattle. The inhabitants are necessarily scattered over an extent of country 120 miles long by 60 wide. For the defence of this property and population, we have three magistrates, four constables, and a few soldiers. One of the magistrates, who left Bathurst but three days since, with other settlers of great respectability, report, that the natives are assembled in a body to the number of six or seven hundred, proclaiming aloud their hostile intentions. About 29 Englishmen have already fallen miserably before those pitiless savages; and still a Philanthropist obtrudes himself upon the Public, recommending the "law of kindness." Would not the wisest of men say, "this also is vanity and vexation of spirit?" "He that spareth the rod hateth his child." Every true friend to the Aborigines must desire that they should be made to learn, by terror, those lessons which they have refused to acquire under a milder discipline. We are now to oppose strength to strength, that an end may be put to the effusion of human blood.

'Tis by strength they measure all,  
Of other excellencies not emulots,  
Nor care who them excels.

Ship Midas, I am &c.  
August 9, 1824. HONESTUS.

Figure 4.2: I am &c, HONESTUS. *Sydney Gazette*. 9 August 1824. Transcript of text overleaf.

*To the Editor of the Sydney Gazette.*

THE BATHURST BLACKS.

Sir,

Beyond the Blue Mountains we have 41 000 acres of located land, 83 000 sheep, 15,000 horned cattle, and about 300 horned cattle. The inhabitants are necessarily scattered over an extent of country 120 miles long by 60 wide. For the defence of this property and population, we have three magistrates, four constables, and a few soldiers. One of the magistrates, who left Bathurst but three days since, with other settlers of great respectability, report, that the natives are assembled in a body to the number of six or seven hundred, proclaiming aloud their hostile intentions. About 20 Englishmen have already fallen miserably before those pitiless savages; and, still a Philanthropist obtrudes himself upon the Public, recommending the “ law of kindness.” Would not the wisest of men say, “ this also is vanity and vexation of spirit ?” He that spareth the rod hateth his child.” Every, true friend to the Aborigines must desire that they should be made to learn, by terror, those lessons which they have refused to acquire under a milder discipline. We are now to oppose strength to strength, that an end may be put to the effusion of human blood.

‘Tis by strength they measure all,  
Of other excellencies not emulous,  
Nor care who them excels.

Ship Midas,  
August 9, 1824

I am &c.  
HONESTUS

Disturbingly, throughout much of Australia’s history, the colonialists through passive and active means, conscious and unconscious acts, attempted to will the fiction of *terra nullius* into reality. Foreign diseases, genocide, rape, the severing of Indigenous life ways, land dispossession, manufactured poverty, assimilation policies

and the removal of children from their families, came close to completely decimating Aboriginal communities. In 1789, one year after invasion, members of the first fleet in and around Sydney Cove documented outbreaks of smallpox among Aboriginal people. Since the nineteenth century, physicians, historians, biologists and activists have debated whether or not smallpox could have been, or was, either deliberately or accidentally released into Aboriginal communities by members of the first fleet (Campbell, 2002) (Reynolds and Dennett, 2002) (Warren, 2007). Smallpox, like other introduced diseases weakened Aboriginal communities across Australia, wreaking havoc on population numbers, and in turn dramatically compromising their ability to resist colonisation. The establishment of the city of Melbourne in 1835 resulted in a 90 percent fall in the population of the Boon Wurrung people of Port Philip, within 20 years of formal settlement (Eidelson, 2014 p. 17).

It is estimated that there were between 300,000 to over one million Indigenous people in Australia prior to 1788 (Statistics, 2008). The Australian Bureau of Statistics estimates Aboriginal population numbers declined from 1788 until the 1920s when they reached their lowest number: 72,000 (Statistics, 1994). In Tasmania, Truganini of the *Nuenonne* language group (1812-76) was regarded as Tasmania's last Aboriginal person, thus propagating the myth, of the disappearance, and the invisibility of surviving Aboriginal Tasmanians. The idea that 'half caste', or part Aborigines, are not Aboriginal has currency to this day for some individuals. Tabloid columnist Andrew Bolt was taken to court in 2011 for questioning 'the motives of light or white-skinned people who identified themselves as Aboriginal, implying they did so for personal gain' (Callanan, 2011). Bolt was found by the Federal Court to have 'contravened section 18c of the Racial Discrimination Act' (Quinn, 2011). The related culture and policies of assimilation, whereby Indigenous people were forced 'to live and work and think like white Australians' (Government, 1958) contributed to processes of attempting to make Aboriginal people 'invisible' (Rowley, 1962, Haebich, 2008 pp. 10, 82, 367).

In the late nineteenth century and early twentieth century state and federal Aboriginal protection agencies forced Aboriginal people to live in fringe communities several miles from town centres on missions and reserves, out of sight and out of mind, as 'invisible' constituents. Formal and informal systems and cultures of racialised segregation prevented Aboriginal and non-Aboriginal people from socialising together. For example, at the opening ceremony of the provisional federal

house of Australian Parliament in May 1927, only two individuals of the 40,000 guests were Aboriginal. They were Wiradjuri men Jimmy Clements and John Noble, who arrived uninvited having walked for a week from Brungle Mission. Initially they were asked to move on by police, and then in response to protests from other guests, allowed to partake in the ceremony (Figure 4.3). As a Melbournian growing up in the 1970s and 1980s, I did not knowingly see an Aboriginal person in that city until I was 16 years of age (1985) and did not meet an Aboriginal person until I took a summer job as a Jackaroo on an outback station a year later. A demonstration of the persistence of the culture of *terra nullius* was on international display at a breakfast business meeting hosted by the then Prime Minister of Australia, Tony Abbott in the lead up the G 20 meeting of nations in Brisbane in 2014. At the meeting held in Sydney, at which fellow conservative British Prime Minister David Cameron was in attendance, Australia's self-appointed Prime Minister of Aboriginal Affairs, Tony Abbott stated that Australia was 'nothing but bush' before British settlement (Henderson, 2014).



Figure 4.3: Photographer unknown. Image shows one of two Aboriginal men who attended the opening of Australia's parliament house. 1927. Black and white photograph. Image courtesy of National Library of Australia.



These are the social legacies within which the *Aboriginal Flag* was conceived; they represent the white hegemonic orders that the *Aboriginal Flag* sought to rupture. Their documentation is important to our understanding of the *Aboriginal Flag*. The *Aboriginal Flag* affirms, first and foremost, Aboriginal survival. Just as Marcus Garvey recognised that the creation of a Pan-African flag would make a powerful statement of racial identity and ‘statehood’, Harold understood that the creation of an *Aboriginal Flag* would make an equally profound statement for Indigenous Australians. Following the massive Aboriginal-led demonstrations that marked Australia’s bicentenary celebrations in Sydney on Australia day (26 January 1988), that day has subsequently often been referred to, officially and unofficially, by Aboriginal activists as ‘Survival Day’ (as well as ‘Invasion Day’). At the 1988 protests and ensuing Aboriginal demonstrations, banners that simply state ‘We Have Survived’ have been a common feature. Aboriginal people would not and did not conveniently disappear and relinquish their ancestral lands. The *Aboriginal Flag* has been a powerful tool in communicating that message as per Chips Mackinolty’s 1988 poster *Commemorating the hand back of Uluru to Traditional Owners* (Figure 4.4).

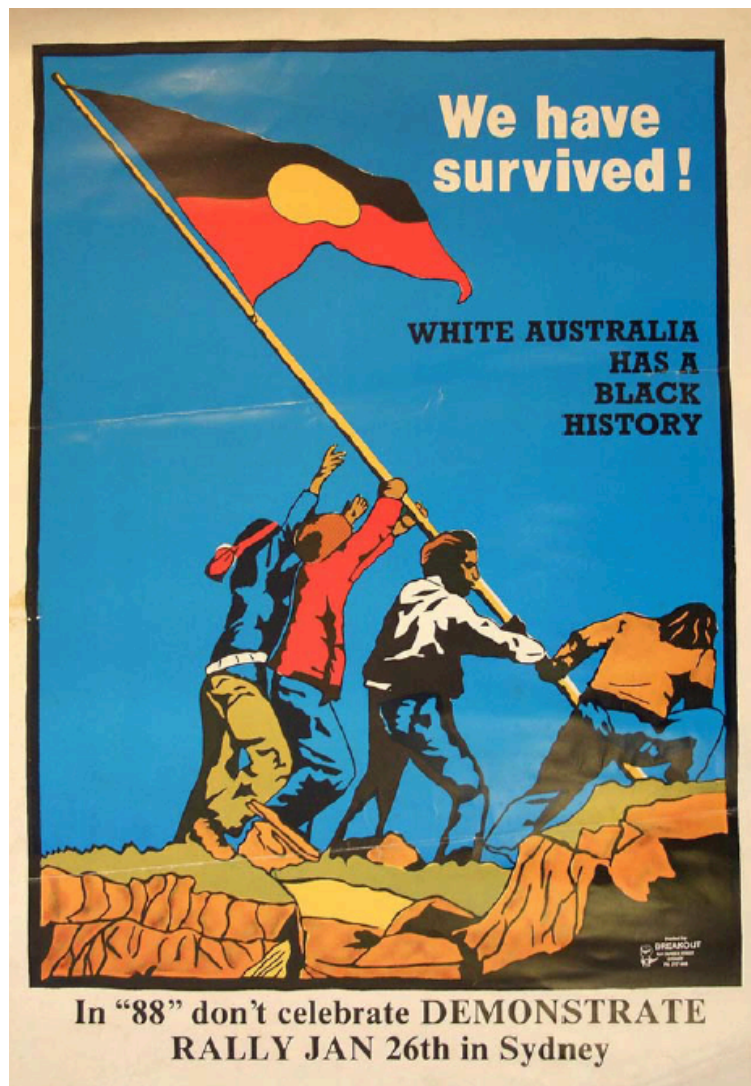


Figure 4.4: Chips Mackinolty, *Commemorating the hand back of Uluru to Traditional Owners*. 1988. Colour print on paper, 111 x 62 cm.

The 1992 Mabo High Court ruling struck down the *terra nullius* doctrine with the declaration: ‘native title rights survived settlement, though subject to the sovereignty of the Crown’ (Statistics, 1995). As such, the Mabo High Court ruling as it relates to the notion of *terra nullius* is contradictory: ‘Aborigines didn’t lose their Native Title rights in 1788, but they were stripped of their rights to manage their own affairs and to live according to their own laws’ (Reynolds, 1996 p.9). Put more simply, the High Court Mabo ruling states that native title rights survived settlement, but according to the same Australian law, Aboriginal sovereignty did not survive settlement. As such, the legal ‘fiction’ *terra nullius*, which is the basis of the claim of

British crown sovereignty, has been ruled invalid by Mabo. However, part of its legal legacy, imposed British sovereignty, remains in place for Indigenous Australians.

### **Sovereignty**

Indigenous and non-Indigenous Australians hold divergent understandings of 'sovereignty'. To the wider non-Aboriginal community 'sovereignty' is associated with territorial sovereignty and more recently it has been associated with the Federal Liberal government's recent task force Operation Sovereign Borders (2013). In the words of the government's report, Operation Sovereign Borders is 'a military-led, border security operation supported and assisted by a wide range of federal government agencies' (Government, 2014). It seeks to name, dramatise and justify the Federal Liberal government's strategy of protecting Australia's territorial sovereignty from the incursions of refugees from outside of Australia (Leslie and Corcoran, 2014).

*Invasion I*, by Aboriginal artist Gordon Syron (Figure 4.5), articulates an Indigenous refrain: the invasion of Australia by a few boatloads of desperate souls has something of a glaring historical precedent. In the painting, the arrival of the colonising First Fleet in 1788 from Britain is being 'witnessed' by a large number of Aboriginal people as the tall ships enter Sydney harbour. The local Aboriginal Eora people are armed with spears and have large fires on each of Sydney's north and south heads. The night scene, and the blue tone of the painting give a powerful sense of foreboding. Syron's painting would seem to suggest that if Aboriginal people could imagine British sovereignty as a colour, it would be the Regal Blue of imperial Britain, a cool, calculating blue monochrome that invades and occupies the landscape. For many Australians, such as Indigenous artist Richard Bell, the seemingly hysterical asylum seeker policies of both major federal parties, is 'another manifestation of Australian racism' (Badham, 2014). The Australian federal government's asylum seeker policies underline the brutal exercise of power of one more powerful group over another that British crown sovereignty, then Australian sovereignty, represents and facilitated in colonial relations.



Figure 4.5: Gordon Syron. *Invasion I*. 1999. Oil painting on linen. 199 x 185cm.

According to Larissa Behrendt, sovereignty for Indigenous Australians represents the legal framework of their historic and continued subjugation by both the British crown and the Australian government:

The law was not just the instrument by which the British claimed they had rightfully dispossessed Indigenous people. It was the instrument by which Indigenous people were kept on government reserves and deprived of basic human rights. It was the instrument that allowed the removal of Aboriginal children from their families as a part of a government policy of assimilation. In short, Indigenous people have always felt the power of the law, but rarely its protection.

(Behrendt, 2003 p. 54)

*Down there with me on the Cowra Mission: an oral history of Erambie Aboriginal Reserve, Cowra, New South Wales*, supports Behrendt's argument. The book, edited

by Peter Read, details both the extent of control non-Aboriginal mission managers exercised over the mission, as well as the Aboriginal communities' proactive and defiant culture (Read, 1984 pp. 1-10, 66-80). In more recent times, conversely, sovereignty has become a 'catch phrase for Indigenous people in expressing their vision for the future'. It has come to represent a perceived means and vehicle for self-determination.

The Western idea of sovereignty has its origins in European nation states that were ruled by a sovereign, a monarch, or other supreme ruler. *The Stanford Encyclopedia of Philosophy* describes the original European concept of sovereignty as 'supreme authority within a territory' (Philipott, 2016). The European concept of sovereignty is synonymous with the formation of the European nation states, a process that took many centuries to evolve into its contemporary form. 'Modern' international sovereignty is legitimised by constitutions, political power (democratic, socialist, fascist, etc), military power, international law and, to an increasing extent, moral philosophy.

Legal scholar Jeremy Webber describes two independent, often competing types of sovereignty that relate to Thomas's *Aboriginal Flag*. They are innate Indigenous sovereignty (which Webber calls 'The Originating Source of Law'), and 'Sovereignty 1', which describes British crown sovereignty. Indigenous sovereignty is based on the 'inherent right of self-government' that 'originates from within the particular people's own traditions' that have 'autochthonous legitimacy...' (Webber, 2012 p. 20). Indigenous sovereignty is understood as 'embodied'... 'ontological (our being) and epistemological (our way of knowing), and it is grounded within complex relations derived from the intersubstantiation of ancestral beings, humans and lands' (Moreton-Robertson, 2007 p. 2). Indigenous sovereignty represents a profound human need, identified by the Canadian Royal Commission on Aboriginal Peoples (1996) as 'the right to know who and what you are' (Webber, 2012 p. 20). These sentiments are reflected in Wiradjuri Elder Wayne Carr's comments, as quoted in the publication *Country, spirit and belonging. The Wiradjuri in Wellington Valley*: 'Sovereignty means – all the good things in life that a race of people can have: recognition of culture, protocols; meaningful Land Rights; all the things that confirm your identity' (Gallois, 2012 p. 47). In contrast, British crown sovereignty (Sovereignty 1), is not an inherent right, rather it is a right derived from 'law' and enforced with *military power* and, in an abstract, anachronistic way: *The Crown*. It is characterised 'by the final

power of decision – ultimate authority... to make or unmake any right whatsoever’ (Webber, 2012 p. 16). These two contested sovereignties, essentially unchanged since 1788, form the legal, cultural and historical foundations of the claims and counter-claims of British and Indigenous sovereignty over Australia.

Since the eighteenth century, philosophers such as Thomas Paine (*The rights of man*) and Jean-Jacques Rousseau (*The social contract*), have argued that all individuals have ‘inalienable rights’ in society and that sovereignty should be based on a social contract between individuals and the republic based in ‘rights’ and ‘duties’ (Rousseau, 1993 pp. 224, 264 ). These ideas have deeply influenced modern Western thought on sovereignty and they have far reaching implications for modern Australia: Indigenous people have never ceded their sovereignty or given their consent to be governed by the British or Australian governments (Mansell, 1998) (Behrendt, 2003 p. 54) (Foley, 2007 p. 123) (Brady, 2007 pp. 145, 149).

Whereas Indigenous communities and individuals have diverse opinions that reflect their diverse circumstances and cultures, Behrendt asserts that an examination of the many Indigenous calls for Indigenous sovereignty in Australia reveals significant common ground across the Aboriginal community (Behrendt, 2003 pp. 86-104). Behrendt chronicles claims to sovereignty (and other related rights) from organisations and individuals as diverse as the Aboriginal Provisional Government, Central and Northern Lands councils, the Council for Aboriginal Reconciliation, Aboriginal and Torres Strait Island Commission, National Aboriginal Island Health Organisation, Galarrway Yunupingu, Kevin Gilbert, Lisa Bellear, Kerry Reed-Gilbert, Mark McMillian, and Roberta Sykes (Behrendt, 2003 p. 86). Concluding that sovereignty for Aboriginal people has come to represent:

... concepts such as representative government and democracy, the recognition of cultural distinctiveness and notions of the freedom of the individual that are embodied in liberalism. These claims take place by seeking a new relationship with the Australian state with increased self-government and autonomy, though not the creation of a new country.

(Behrendt, 2003 p. 102)

Thus Behrendt outlines a series of contemporary Indigenous political values that have been deeply influenced by Western social and political ideals such as democracy and

liberalism. Sovereignty has come to represent a utopian ideal, in which potentially hundreds of Indigenous nations exist within the Australian nation state. Each nation would enjoy democratic self-government that would afford groups and individuals Indigenous social, cultural and political expression. It is important to contextualise these political ideals within the political reality of Indigenous Australians. They have not been granted or successfully demanded sustained democratic self-government. Nor have there been provisions for Aboriginal seats in any Australian parliaments to be elected by Aboriginal citizens, as there are for Maori people in the New Zealand parliament. In 1973, the Whitlam Government set up the National Aboriginal Consultative Committee (NACC) to replace the all-white former advising body, the Council for Aboriginal Affairs. Despite NACC being short-lived, it is a significant, under-recognised milestone in Indigenous affairs.

Wiradjuri man Paul Coe's High Court challenges *Coe v. Commonwealth* (1979), and *Coe v. Australia* (1993), presented the legal and moral case for Indigenous sovereignty. Coe's 1993 claim for relief made 11 declarations. Those listed below relate directly to his claims of sovereignty:

A: the Wiradjuri are a sovereign nation of people;

B: the Wiradjuri are a domestic dependent nation, entitled to self government and full rights over their traditional lands, save only the right to alienate them to whoever they please;

C: the Wiradjuri are a free and independent people entitled to the possession of those rights and interests (including rights and interests in land) which as such are valuable to them;

D: the Wiradjuri people are entitled as against the whole world to possession, occupation, use and enjoyment of Wiradjuri lands;

E: the Wiradjuri people are entitled as against the whole world to possession, occupation, use and enjoyment of those Wiradjuri lands where native title has not been extinguished; ...

(Mason, 1993)

Coe's claims are listed unabbreviated to demonstrate their breadth and complexity. Significantly Coe's claim repudiates British sovereignty and asserts that Wiradjuri land and sovereignty were taken by force, without consent. Coe's statement asserted those claims within both the language and form of the British legal system that is the basis of the Australian government's claims of sovereignty over, not just Wiradjuri people, but all Indigenous people across Australia. As such, Coe's claim was an attempt to go beyond polemics, academic essays, sit downs (strikes), such as those that took place in the Pilbara (1946-49) and Gurindji (1966), and street marches resulting from the 1988 Bicentenary protest. His claims sought to challenge directly the legal system that has subjugated Wiradjuri people. Indigenous legal scholars Philip Flak and Gary Martin argue that Coe's 1993 claim for 'internal' Wiradjuri sovereignty is an achievable goal (Flak and Martin, 2007 p. 39).

The significance of Coe's challenge rests in part with what it was able to further reveal about the 'technique' and 'form', to paraphrase Michel Foucault, of British and Australian institutional power over Indigenous Australians. (Foucault, 1982 p. 781). The Australian High Court ruled against Coe, stating that the matter was 'non-justiciable': based on the argument that only another state can bring a claim of sovereignty to the International Court of Justice. The High court asserted that extensions of sovereignty are matters of international, not domestic law. Indigenous claims of sovereignty are therefore, beyond the reach of Australian courts (Reynolds, 1996 p. xvi). In effect, the British claims of sovereignty over Australia stripped Aboriginal people of their ancestral land and statehood, and simultaneously robbed them of the legal means (in British /Australian Law) of challenging British / Australian imposed sovereignty! Tricky Western laws like these, that offer no justice or recourse in law, only subjugation, help explain Indigenous Australians strenuous resistance to British and Australian crown sovereignty. By comparison and contrast, High Courts in other colonial settler countries like America, and Canada have made rulings on claims of sovereignty by their Indigenous peoples. In 1832 Chief Justice Marshall addressed issues of American Indian sovereignty in the case *Johnston v McIntosh* observing Indians were 'the rightful occupants of the soil, with legal as well as just claim to retain possession of it' (Reynolds, 1996 p. 125). Canada courts overturned *terra nullius* in relation to both land and sovereignty (Reynolds, 1996 p. 133). These cases clearly diminish the suppositions of Australian law against Coe and



Indigenous Australians. Flak and Martin argue in their article ‘Misconstruing Indigenous sovereignty: Maintaining the fabric of Australian law’ that ‘the High Court has misconstrued the call for Indigenous ‘internal’ sovereignty as a demand for external ‘sovereignty’. They suggest ‘that the real reason for government and judicial inaction continues to be the very same racism that has permeated white and Indigenous relations since invasion’ (Flak and Martin, 2007 p. 46).

Coe’s legal initiative suggests that the colonisation of Aboriginal people in Australia is ongoing. It does not refer to a past historical period. This is a critical distinction supported by a number of historians. Ann Curthoys describes contemporary Australia as being simultaneously a colonial and postcolonial nation, or more accurately, ‘a society which is colonising and decolonising at the same time’ (Curthoys, 2000 p. 32). Within this dynamic, Indigenous acts and expressions of self-determination, such as the inaugural Aboriginal civil rights convention (1925), the creation of the *Aboriginal Flag* (1971), the Tent Embassy (1972), Coe’s claims of relief and Wik (1994) (to name just a few) constitute acts of ‘internal decolonisation’. Likewise, the absence of a treaty or constitutional representation, some of the world’s highest rates of Indigenous incarceration and ‘The Intervention’ (to name just a few) represent present-day forces of colonisation. As a demonstration of the complex nature of these trends, a third group has acted in both camps. Foley argues that ‘Mabo represents the single greatest act of dispossession in Australian history since 1788’ (Foley, 2007 p. 132). In effect, Mabo (1993) ruled that native title only applies to real estate anomalies, to the few parcels of land that have never been bought or sold since 1788. Mabo in effect determined that Aboriginal people were dispossessed of ‘freehold’ land that constitutes the great majority of Australia’s valuable residential and agricultural land.

### **One nation, four flags**

As signs and objects in the landscape, flags have considerable exposure and reinforce on conscious and unconscious levels, intrinsic historic social norms and attitudes about who we are and where we come from. The Australian flag and the *Aboriginal Flag* were created in very different contexts and for very different purposes. The former was created in 1901 as part of Federation to represent the coming together of the then six state colonies into the Commonwealth of Australia. Conversely, the

*Aboriginal Flag*, does not represent a nation, but rather a stateless people. It is not a nationalistic flag in the same sense that the Australian flag represents the Australian nation (Thomas, 2009 p. 37). Indigenous leaders do not speak of their intent to use the *Aboriginal Flag* as part of a process that reclaims the continent of Australia, as an Aboriginal nation state, or to claim or create an independent state within the nation state of Australia (McGregor, 2011 p. 177).

The design of the Australian flag and the *Aboriginal Flag* are dramatically differentiated by an important characteristic. In the top left hand corner of the *Australian flag*, in an area that covers a quarter of the flag's total surface, the ensign of another nation, the Union Jack of the United Kingdom resides. Clearly, the Australian flag and the *Aboriginal Flag* reflect very different attitudes towards British sovereignty (Figures 4.6, 4.7). Australia's head of state is the Governor General, a representative of the British crown. Australia is a constitutional monarchy not a republic. Australia is a willing member of the British Commonwealth (Figure 4.8). Every Australian coin has an image of Queen Elizabeth on one of its faces. All these facts and symbols affirm that Australia retains aspects of being a colony of Britain, and that Aboriginal Australians are a colonised people. By contrast, and as a measure of its cunning and brilliance, the *Aboriginal Flag* counters *terra nullius* and imposed British and Australian sovereignty, without directly referencing or alluding in its symbolism to the history of Aboriginal people being colonised.<sup>20</sup> As such, it does not reproduce, by default, the very hegemonic Anglo-centric power relations that a lesser flag might have tried to address symbolically: it is not the flag of a colonised people (in contrast to Nowra Embassy Flag). This aspect of the flag's 'character' is central to a deeper understanding of the flag's significance and meaning: *The Aboriginal Flag is not an angry flag*. Rather, as a profound contemporary expression of Aboriginal lore, cosmology and identity, the flag states: *this is who we are*. The great power and meaning of Thomas's flag for Aboriginal Australians is found in these sentiments that ultimately transcend the flag's activist agendas.

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<sup>20</sup> Some interpret the red base of the flag as the blood (and suffering) of Aboriginal people. This is not Harold Thomas's intended reading. The red base symbolises the red earth to which the Aboriginal people are connected.



Figure 4.6: Ivor Evan, Leslie John Hawkins, Egbert John Nuttall, Annie Dorrington and William Stevens. The Australian Flag. 1901.



Figure 4.7: Harold Thomas. The *Aboriginal Flag*. 1971.



Figure 4.8: Photographer unknown. Image shows the queen of Australia with Prime Minister Bob Hawke looking on, signing the visitors' guest book and part of ceremonies marking the opening of Australia's new parliament house. 1988.

The presence of the Union Jack in the Australian flag and its absence in the *Aboriginal Flag* relates to a fundamental tenet of contemporary democratic theory previously alluded to. In modern states (no longer ruled by an absolute monarch), sovereignty is increasingly based upon a consensual relationship between 'the people' and elected heads of state (in Australia's case, the Queen). The *Aboriginal Flag*, is partisan and consonant with Australian's first nations' leaders who affirm, as previously noted, that Indigenous 'Australians' have never relinquished their sovereignty to the British crown. Most non-Aboriginal Australians as per a 2010 survey, are quite happy to have the Union Jack stamped on the *Australian flag* (Schulz and Barry, 2010).

Flown, as it now is, on most of Australia's public buildings adjacent to the Australian flag and the Torres Strait Islander flag, the *Aboriginal Flag's* symbolism has complex meanings that are both poorly understood and easily misread. A person from a country other than Australia, versed in a basic understanding of the symbolism and usage of flags as assertions of sovereignty – global citizen Joe – could be forgiven for thinking that Australia is somehow one country made up of four nations. The full

story is far more complex. In the first instance, the *Aboriginal Flag* is flown only on some public buildings in Australia. The Federal Parliament and the High Court of Australia appear to have given the *Aboriginal Flag*'s meaning and potential symbolic and legal signification, a little more thought than most public institutions. Neither fly the flag on a permanent basis. Federal Parliament does fly the flag on days of Indigenous significance. Since 2015, the Victoria parliament by contrast, flies the *Aboriginal Flag* permanently alongside the Australian and Victorian flags. Most Shire Councils in Australia fly both the Australian and *Aboriginal Flags*, though some have only done so reluctantly. Balranald Shire Council in south-western New South Wales only recently adopted a two flag policy after a two-year campaign initiated by local Aboriginal Elder Bes Murray (Holmes, 2017 See appendix).

What does the *Aboriginal Flag* signify when it is flown in public alongside the Australian flag (with its British ensign)? Competing claims of sovereignty over Australia? Good public relations cover for the Australian government? Nothing very much at all? A continent paralysed by constitutional and legal crises relating to sovereignty? A nation with first peoples who have symbolic rights as land custodians? An expression of multicultural tolerance? Or perhaps self-government and autonomy of Australia's Aboriginal language groups (Figure 4.9)? All these questions/answers are plausible responses to the question at hand, except the very last – Indigenous Australians do not have self-government and autonomy. The meaning of the flags is best addressed (but not necessarily answered) by asking if the act of flying the *Aboriginal Flag* has any legal or constitutional ramifications in Aboriginal or Australian law? These are some of the great pressing revelatory questions this thesis explores in the concluding chapters, once further contexts and histories of the *Aboriginal Flag* have been discussed and analysed.

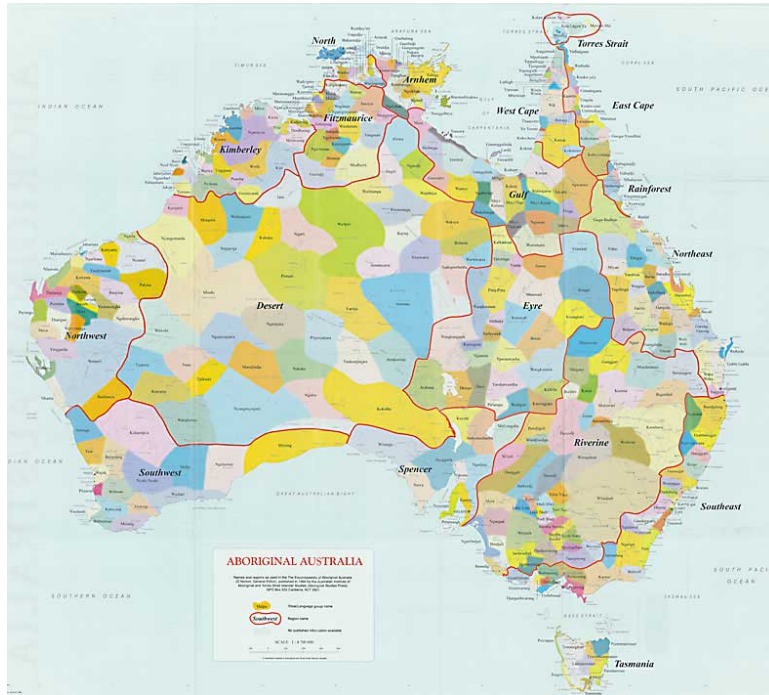


Figure 4.9: David R. Horton. The AIATSIS map of Aboriginal Australia. © Aboriginal Studies Press, AIATSIS and Auslig/Sinclair, Knight, Merz. 1996.<sup>21</sup>

<sup>21</sup> This map attempts to represent the language, social or nation groups of Aboriginal Australia. It shows only the general locations of larger groupings of people, which may include clans, dialects or individual languages in a group. It has used published resources from 1988-1994 and is not intended to be exact, nor the boundaries fixed. It is not suitable for native title or other land claims.

## 5

**The interpersonal context and form of assimilation**

*Pour your pitcher of wine into the wide river  
And where is your wine? There is only river.*

Extract from the poem 'Assimilation – No!'. 1966

(Noonuccal, 2008 p. 44)

The *Aboriginal Flag* in its many contemporary public guises and contexts does not symbolise nationalistic sentiments or aspirations. Rather it asserts land rights and Indigenous sovereignty; and it affirms pride in Aboriginal identity in ways that are often deeply personal. In this sense, the creation of the *Aboriginal Flag* in 1971 was an act of defiance against the cultures and policies of assimilation that had resulted in many Aboriginal Australians feeling ashamed of their Aboriginal identity. Cultural homogeneity is a powerfully determinate cultural force in Australian society. Assimilation, a process whereby minority groups are encouraged or forced to adapt to the customs and attitudes of the dominant group, continues to be the most ardent expression and force of Australian homogeneity. A policy of assimilation of Indigenous Australians into mainstream Anglo-Celtic Australian society has been forcefully pursued for much of Australia's history by all tiers of government. It was partially successful in its objectives because it was and continues to be enforced one-to-one, by Anglo-Celtic citizens who support the government's assimilationist objectives. In the form it took in Australia, assimilation represents a sustained attack on Aboriginal identity and culture that many Aboriginal people describe in terms of cultural genocide. Within these contexts, the display of the *Aboriginal Flag*, particularly when it is 'flown' on the Black self, in the form of a T-shirt, badge or tattoo is both a political and a deeply personal counter affirmation of black identity. As such, the *Aboriginal Flag* has both its public uses and meanings, and its very personal meanings for Indigenous individuals. In both contexts, the *Aboriginal Flag* represents a rupture in the culture of Australian assimilation.

### *Assimilation of our Aborigines*

In 1958, Wiradjuri woman Joyce Williams, then a 31 year old health care worker and mother of three, was given the booklet *Assimilation of our Aborigines* (Figures 5.1-5.6). A copy is still in her possession. She uses it as an educational tool when she speaks with Aboriginal students in her community in Wellington, New South Wales about racist Australian government policies that impacted on her life and the lives of Indigenous people across Australia. The booklet was one of many prepared under the authority of the Minister for Territories, with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States. The series of booklets (the first was issued in 1957), were used by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day. The 1958 pamphlet contains an essay that explains the government's rationale for assimilation and 12 carefully constructed images that 'visualise' a utopian vision of the policy (Figures 5.3-5.6). Each booklet/publication reflected the evolving philosophy and ideologies of the federal government's policies towards Aboriginal people. The first page of the 1958 pamphlet states:

In its simplest terms assimilation means that, to survive and prosper, the aborigines must live and work and think like white Australians do so that they can take their place in the social, economic and political equality with the rest of the Australian community.

(Government, 1958 p. 1)

A chilling government statement by any measure: *to survive* ... aborigines must ... think like white people.... One can only imagine that for many Aboriginal people like Ms Williams, who had both witnessed and experienced first hand the many atrocities perpetrated against Aboriginal people by various tiers of the Australian government, this statement read like a threat. In 1961, the Federal Minister for Territories (Sir) Paul Hasluck, who was instrumental in determining the booklet's contents, framed a more nuanced definition of assimilation:



all aborigines and part aborigines are expected to eventually attain the same manner of living as other Australians and to live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians.

(Hasluck, 1961)

Hasluck's statement is typical of white Australian politicians and administrators of Aboriginal affairs, who framed the rationale of assimilating Indigenous Australians within the seemingly benign, seemingly related values of homogeneity and social cohesion. The latter stresses that members of a society need to cooperate with each other in order to survive and prosper. An expectation of the government, implied, but not directly stated in Hasluck's statement, was that assimilation entailed the conversion of Aboriginal people to Christianity. This is born out in the more direct and transparent 1958 *Assimilation of our Aborigines* pamphlet, which states that the government is 'working to that end' with the 'cooperation of the Christian missions' (Government, 1958 p. 1).

For much of Auntie Joyce's life, the laws and culture of assimilation were inherently contradictory: they were both segregationist and assimilatory. Auntie Joyce was forced to live apart from the white community on Nanima mission. She was also forced to 'conform to standards of public and private behavior acceptable to white citizens' (Haebich, 2008 p. 75); and 'assertions of difference [had] to be accommodated in the terms of the coloniser (Willis and Fry, 1988 p. 7). In Wellington, the missionaries (Church Missionary Society 1832-1845), then the Aborigines Protection and Welfare Boards (1883-1969), and the heavily Christian-oriented schooling at Nanima Mission constituted the most visible and vigorous vehicles of 'assimilation'. Auntie Joyce recalls that this process was not benign. Along with her classmates, she received 'cuts'. She and her fellow students were regularly caned hard enough for blood to be drawn at Nanima Mission School for speaking Wiradjuri words and for painting Aboriginal motifs on their skin with clay.

State and federal governments, from the 1930 and 1940s formalised the process of assimilation through the granting of Exemption Certificates (Figure 5.7). Aboriginal people who were considered sufficiently assimilated were granted 'dog

tags' (as they came to be known by Aboriginal people) that gave them citizenship rights or 'privileges' that they would not otherwise possess: rights or 'privileges' enjoyed by white Australians 'such as being allowed to vote, attend school, buy alcohol for themselves, and be exempt from the restrictions of state protection laws (Australia, 2017). Many Aboriginal people, who were deemed eligible for exemption, rejected the scheme. In 1957, Australia's most well-known and celebrated Aboriginal person, Albert Namatjira, and his wife Rubina were made Australia's first Aboriginal citizens, against their will. As Northern Territory residents, Namatjira and Rubina fell under federal government ordinances, which placed them under the Northern Territory Administration act. These were 'relaxed' in 1936 to allow 'half caste' Aboriginal people who had demonstrated their capacity to live independently in the western sense to apply for exemption. On several occasions Namatjira was offered citizenship by the Administration (the federal government), which he refused. Citizenship would give the full blood Namatjira's rights of citizenship enjoyed by non-Aboriginal people, rendering void the need for them to be given exception cards. Albert Namatjira was sufficiently motivated about the issue to seek advice from a solicitor as to how he could maintain his non-status as an Australian citizen (French, 2002a p. 19). His status, as an exemplary, supposedly 'assimilated' Aborigine and *non-citizen* was an embarrassment for the government. In 1957 a journalist informed him that he and his wife had been made Australia's first Aboriginal citizens (French, 2002a p. 19).

In the years between the world wars and well into the 1960s, many Aboriginal people like Auntie Joyce were living out on the mission or reserve in poverty, segregated from the wider white communities' prosperity. As a child, Auntie Joyce was often sent to Wellington, seven kilometres away to beg for food by her family. Her four older siblings died before they reached 12 years of age (Gallois, 2012 p. 2). The decision to apply for an Exemption Certificate was indeed, at times a question of survival. At other times, it reflected the distorting, corrosive power of racism on social groups that can lead to, among other things, individuals seeking acceptance by the dominant social group. As identified by McGregor the laws that forbade Aboriginal people from drinking in bars and pubs excluded them from 'ritual affirmations' of 'mateship' central to the Australian ethos. This 'implied insult' was acutely felt on an inter-personal level. Segregation from these rituals 'symbolically excluded them from the community of (male) nation' (McGregor, 2011 p. 148). The divisions created by

the Exemption Certificates reverberate in Aboriginal communities to this day. Elders, such as Auntie Joyce, who acquired an Exemption Certificate, are now vulnerable to being vilified and rejected by ignorant sections of their communities as traitors of black solidarity.

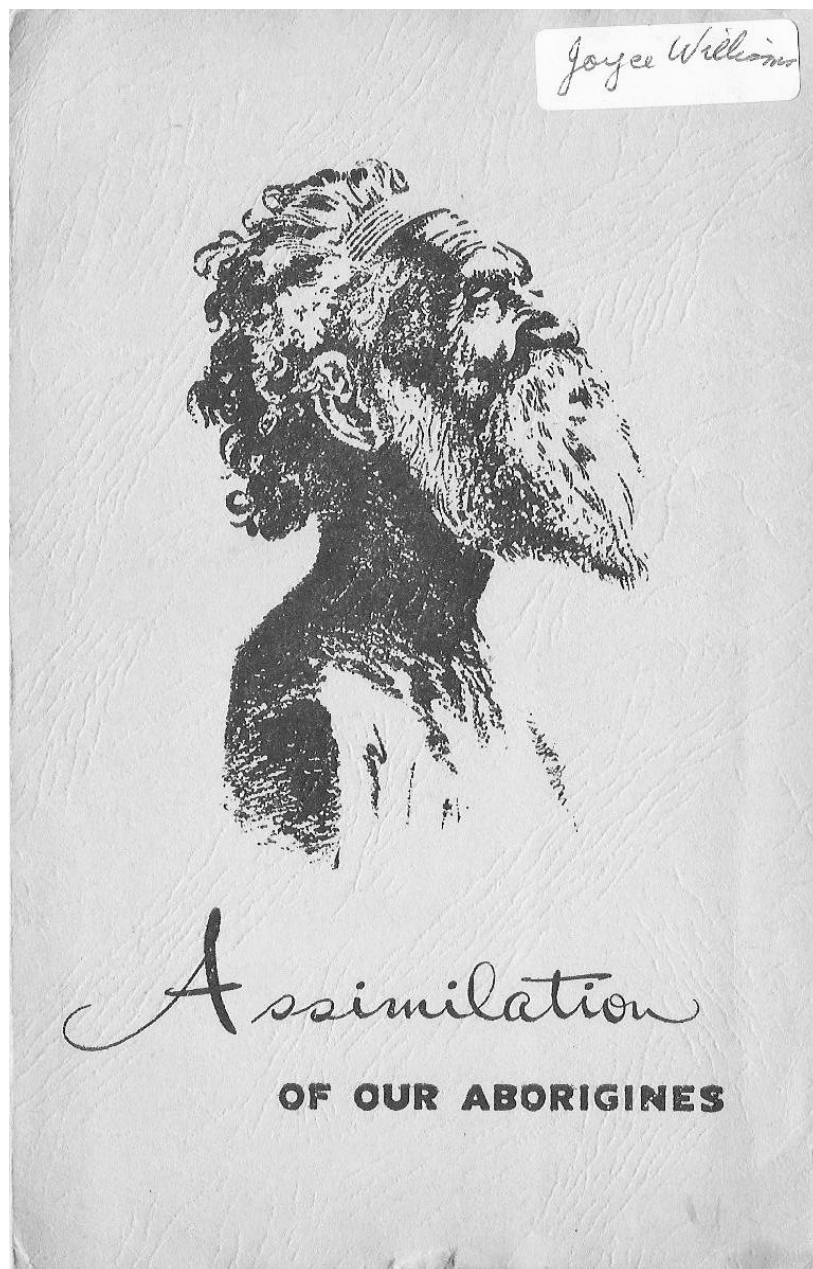


Figure 5.1: *Assimilation of our Aborigines* pamphlet (cover.) Prepared under the authority of the Minister for Territories, and with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States, for use by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day in Australia, 11 July 1958.

## *Assimilation of Our Aborigines*

The aborigines probably came to Australia thousands of years ago by land bridges that have since disappeared. They adapted themselves well to an environment that was often harsh, but their material culture remained primitive. In general they had no clothes, no permanent dwellings and, with the exception of the dog, no domestic animals. They harvested no crops. They were hunters and food gatherers who wandered from waterhole to waterhole within their tribal territories according to traditional patterns. They developed intricate social and religious systems to regulate their lives.

The Commonwealth and State Governments agree that the only future for Australia's 74,000 aborigines is assimilation and, with the co-operation of the Christian Missions, are working towards that end. In its simplest terms assimilation means that, to survive and prosper, the aborigines must live and work and think as white Australians do so that they can take their place in social, economic, and political equality with the rest of the Australian community. The Governments concerned regard the problem primarily as social and not racial. It is one of enabling people to live together on equal terms in the same society with benefit to themselves and to each other. It does not concern the way in which two groups of people of different race may live in the same community while maintaining their racial separateness.

Segregation is the alternative to assimilation. But even if it were possible and desirable to leave the aborigines in untouched seclusion, they refuse to be so left. The present position in the Northern Territory may be taken as typifying this aspect of the problem—about 5,000 aborigines are in touch with the Missions, possibly 4,000

Figure 5.2: *Assimilation of our Aborigines* pamphlet. Page 1. Prepared under the authority of the Minister for Territories, and with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States, for use by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day in Australia, 11 July 1958.





1. In 1788 there were about 300,000 aborigines in Australia. Now there are about 74,000, comparatively few of whom live in the tribal state. Queensland has an estimated 9,800 aborigines, some 7,000 half blood aborigines (and 5,700 Torres Strait Islanders); New South Wales has only about 230 full aborigines and about 12,150 mixed bloods; in Victoria there are about 20 full bloods and a little over a thousand of aboriginal descent; South Australia has just over 5,000 aborigines and part-aborigines, the latter probably slightly outnumbering the former; in Western Australia there are about 21,300 aborigines or part-aborigines classified as natives, about 6,000 of whom are nomads; in the Northern Territory there are about 16,000 full aborigines and 1,900 of mixed race.

Figure 5.3: *Assimilation of our Aborigines* pamphlet. Prepared under the authority of the Minister for Territories, and with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States, for use by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day in Australia, 11 July 1958.





6. Health activities are an important step towards assimilation as well as being a necessity in themselves. Fundamental rules of health, hygiene, and nutrition are taught on Government and Mission stations where the emphasis is on maternal and child welfare. In the Northern Territory, health services, including the Aerial Medical Services, are available to aborigines and whites without discrimination. On each settlement in the Northern Territory there is a medical centre staffed by a trained nurse. The Government subsidises missions £870 for each trained nurse employed—as well as for other specialists such as teachers. Settlement children emerge from the tribal background better equipped for the problems ahead than are their parents. For aborigines who have broken tribal ties the problem of health is essentially one of social betterment.

Figure 5.4: *Assimilation of our Aborigines* pamphlet. Prepared under the authority of the Minister for Territories, and with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States, for use by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day in Australia, 11 July 1958.

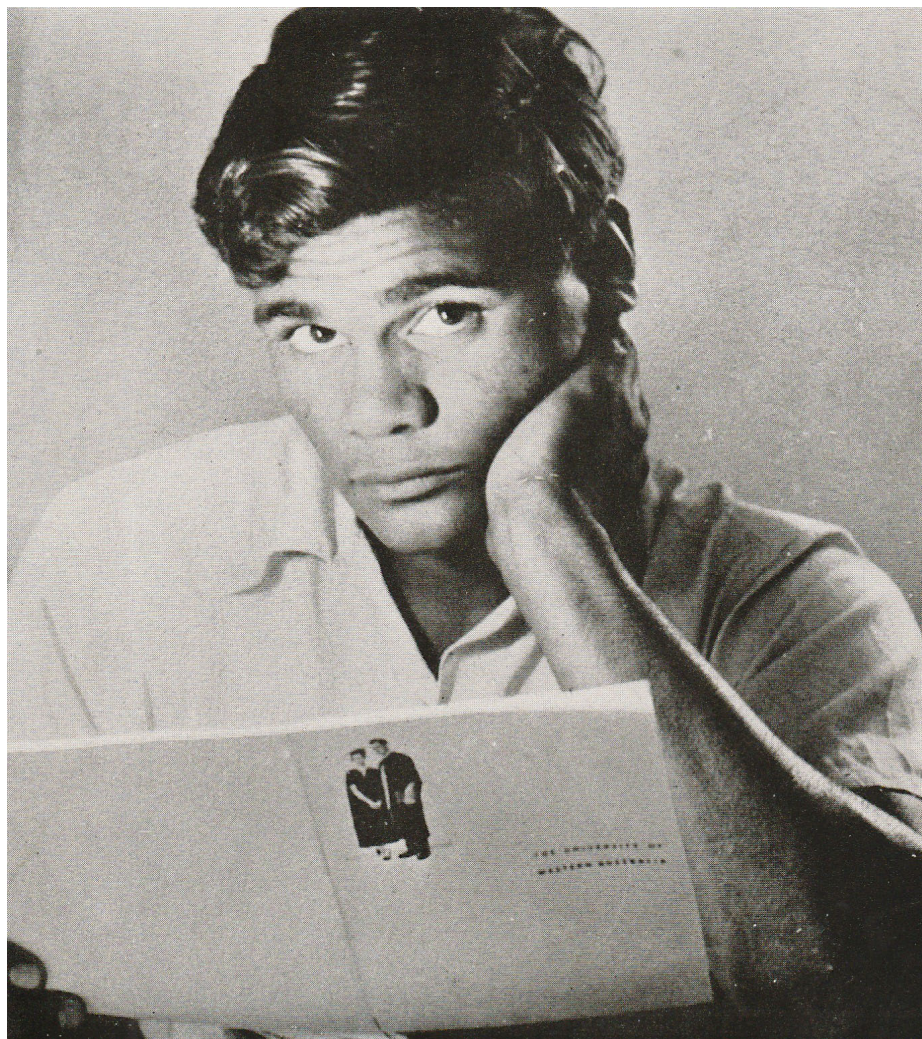




8. Classwork in progress at a special school for aboriginal children in the Northern Territory where there are 27 such schools (with 55 teachers and 1,856 pupils), 14 of them on Mission settlements. This year Government subsidies for education to Northern Territory Missions totalled about £45,000. In the pre-school field a start has been made with one kindergarten near Alice Springs and two more are planned. There are also classes in some places for adult aborigines where the emphasis is on oral English, crafts, and practical skills like carpentry, blacksmithing, and motor mechanics.

Figure 5.5: *Assimilation of our Aborigines* pamphlet. Prepared under the authority of the Minister for Territories, and with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States, for use by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day in Australia, 11 July 1958.





12. A part-aboriginal student at an Australian University. There are, however, few such students at present although the opportunities for tertiary education exist. The policy of assimilation is a policy of opportunity, giving the aboriginal and part-aboriginal the chance to shape his own life—and there is no limit to the success he may achieve. To be successful, however, assimilation means acceptance of these people on equal terms by the white community. This is a matter not for Governments and Missions alone but for every Australian.

Figure 5.6: *Assimilation of our Aborigines* pamphlet. Prepared under the authority of the Minister for Territories, and with the co-operation of the Ministers responsible for Aboriginal welfare in Australian States, for use by the National Aborigines Day Committee and its Associations in connection with the celebration of National Aborigines' Day in Australia, 11 July 1958.



NEW SOUTH WALES GOVERNMENT  
 ABORIGINES PROTECTION ACT, 1909-1943, SECTION 18c  
 [REGULATION 56]

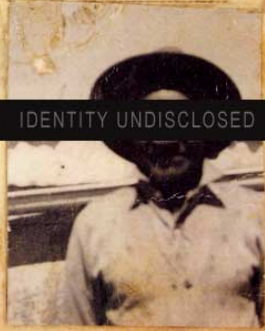
**CERTIFICATE OF EXEMPTION**  
 From Provisions of the Act and Regulations

THIS IS TO CERTIFY that IDENTITY UNDISCLOSED (MURE SETTLEMENT)  
 H.C. Aborigine, aged 48 years, residing at CONDOBOLIN  
 (caste)  
 is a person who in the opinion of the Aborigines Welfare Board, ought no longer be subject  
 to the provisions of the Aborigines Protection Act and Regulations, or any of such  
 following provisions, and he/she is accordingly exempted from such provisions :—

Issued in compliance with the Resolution of the  
 Aborigines Welfare Board and dated the  
 SIXTEENTH day of NOVEMBER, 19 53

*A. Kingman* Chairman.  
*Green* Member.  
 of the Aborigines Welfare Board.

Countersigned by  
 The Secretary.  
*J. Sullivan*

Photograph of  


Signature of Hoder IDENTITY UNDISCLOSED

39441 4.61 V. C. N. Blight, Government Printer

Figure 5.7: Exemption Certificate.

### The precepts of assimilation

From the early colonial contact era to this day, Anglo-Celts have found it hard to understand that Indigenous Australians have their own revered values and cultural norms and that thinking, acting and worshipping like ‘Anglo-Celts’ does not interest them (Watson, 2007 p. 26, Read, 1984 p. 2). Many aspects of Anglo-Celtic society such as (a ‘social’ system of have and have nots), the exploitation of the environment for profit and white law and ‘justice’ (that disproportionately incarcerates Indigenous Australians), to name just a few, are the antithesis of a carefully calibrated set of values that have kept Indigenous people in good stead for more than 50,000 years. This arrogant and naive attitude explains in part why Indigenous Australians were offered no viable alternatives to assimilation. Policies that would have enabled parallel Indigenous cultural preservation within a framework that also afforded

‘inclusion in the Australian nation’, that provided ‘economic security, political representation and a respected role in the life of the community’, were not on offer. Instead, the policy of assimilation entailed a kind of ‘Faustian pact’. The government offered Aboriginal people the rights of Australian citizens (but not citizenship) if, in exchange they renounced their Aboriginal social values, community ties, language, customs, religious beliefs: everything that constituted their Aboriginal identity. The price, as described by historian Anna Haebich was their ‘cultural obliteration’ (Haebich, 2008 p. 11); a term also used by McGregor (McGregor, 2011 p. 64).

Inferred and stated but rarely delivered, as in the utopia images of *Assimilation of our Aborigines* pamphlet, assimilation ‘promised’ first world education, health care services and professional job opportunities enjoyed by white Australians. The reality of lived experience was quite different. Russell Drysdale’s painting of Aboriginal people of the 1950s captures their sense of alienation, displacement and estrangement within the broader Australian community. In art works like *Group of Aborigines* (1953), *Mullaloonah tank* (1953) and *Shopping day* (1953), the subjects look back at the viewer with blank expressions. They wear Western clothes, but they are barefooted. One senses a great physical, social and cultural distance between subject and painter (Figures 5.8-5.10).



Figure 5.8: Russell Drysdale. *Shopping day*. 1953. Oil on canvas. 59.7 x 75.0 cm. Collection of the Art Gallery of NSW.



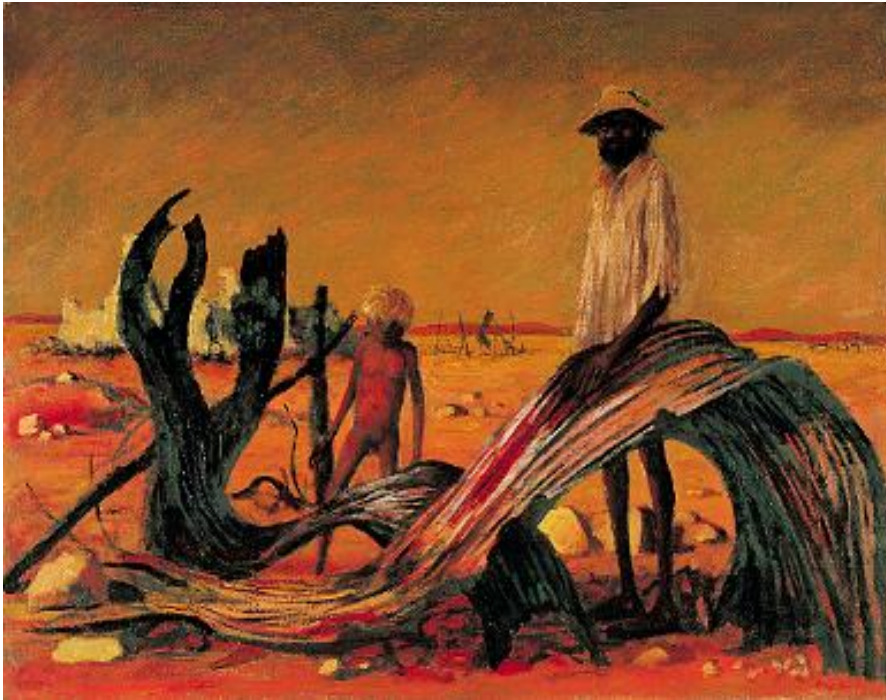


Figure 5.9: Russell Drysdale. *Mullaloonah tank*. 1953. Oil on canvas. 59.7 x 75.0 cm. Collection of the Art Gallery of NSW.



Figure 5.10: Russell Drysdale. *Group of Aborigines*. 1953. Oil on canvas. 50.8 x 61.0 cm. Collection of the Art Gallery of NSW.

Tellingly, land rights for Aboriginal people was not part of the assimilation pact (Haebich, 2008 p. 48). To have citizen rights, Aboriginal people had to give up their Aboriginal identity, and their traditional lands. Either by traitorous and cunning design, or serendipity (for the colonisers), assimilation further severed Aboriginal people from their cultural and spiritual connection to their ancestral lands. Fully assimilated Aboriginal people, as black ‘white thinking Australians’ would have no cultural or social basis (or need) to claim land rights. Thus, assimilation, as a form of interpersonal social and cultural colonisation, reinforced and strengthened the broader forces of land-based seizure that underpinned Australia’s colonisation.

One of the more disturbing and telling characteristics of assimilation in Australia was the lack of thorough research or data unpinning the ‘scientific’ ‘sociological’ basis of the policy. Decades of social engineering were undertaken without evidence-based research into the envisaged gains or benefits of the policy for Aboriginal people, or the wider community. Assimilation amounts to a far-reaching ‘blind’ social experiment that involved tens of thousands of Aboriginal people. In a process that often reflected an attitude of ‘cultural evangelism’ (The Hon. Ian Viner, 1977 p.5), of *we know what’s best for Aboriginal people* (with no thought to their consultation), assimilation policies were conceived by white ‘politicians and bureaucrats, guided by their professional and personal takes on Aboriginal issues’, ‘sometimes advised by academics who created the policies’ (Haebich, 2008 p. 107). Influential anthropologists, such as A.P. Elkin (1891-1979) who was also an Anglican clergyman, presented themselves as experts on all aspects of Aboriginal culture and people and played a key role in helping shape assimilationist policies (Haebich, 2008 p. 111). Between the period 1930-1990, Australia’s leading national anthropological journal, *Oceania* published just eight studies on assimilation (that is one paper every 7.5 years) (Haebich, 2008 p. 112). Sociology as an academic discipline did not develop in Australia until the 1960s. Assimilation in Australia was not based on successful precedents from other similar colonial new settler nations such as Canada, NZ or America. Rather those who formed Australia’s assimilationist policies were either unaware of the failings of other assimilationist regimes and the abandonment of the assimilation of native people by other states or convinced that the Australian situation was different. The American government’s *1934 Indian Reorganization Act* states that: ‘there might be, indefinitely, American citizens with systems of belief and

affiliations quite different from those of the majority as long as all were equal before the law' (Rowley, 1962 p. 258).

### **The end of assimilation as government policy**

For eminent Australian H. C. Coombs, economist, public servant, first governor of the Reserve Bank of Australia and author of the book *Australia's policy towards aborigines, 1967-1977*), the critical shift in Australian culture in relation to Indigenous people came in 1975 when the Liberal Country Party Coalition as part of their election platform declared 'We recognise the fundamental right of Aborigines to retain their racial identity and traditional life style or where they desire to adopt a partially or wholly European life style (Haebich, 2008 p. 388). With this policy shift, the abandonment of assimilation as official government policy, secured critical bipartisan support.

By the late 1970s, a growing body of data and criticism clarified the failure of assimilation on many fronts. As described by Anna Haebich in her 2008 publication *Spinning the dream: assimilation in Australia 1950-1970*:

Frustration within government departments in achieving the goals of assimilation mounted as new reliable statistical data on Aboriginal conditions showed an appalling state of affairs after almost two decades of assimilation policies.

(Haebich, 2008 p. 423)

Word finally got through to white Australia: assimilation was an unsuccessful social experiment; its core stated objective, social and economic advancement of Aboriginal people had failed. Its racist premise was finally exposed. Coombs stated in a Walter Murdoch Lecture in 1976 as then chair of the Council for Aboriginal Affairs that 'consultations with Aboriginal people convinced them that most Aborigines did not see assimilation as an attractive or even acceptable future' (Haebich, 2008 p. 378).

*Indifferent Inclusion* seeks to redress perceived imbalances in how the assimilationist era is now appraised by historians. McGregor argues that the policies and culture of assimilation were not devoid of positive achievements. In McGregor's view 'it was a dynamic era in which the foundations of national inclusiveness towards

Indigenous people were laid' (McGregor, 2011 p. 183). McGregor argues that in the middle decades of the twentieth century 'the word 'assimilation' encompassed a wide range of proposals for securing an Aboriginal future, and drew support from an equally diverse array of people – both Indigenous and non-Indigenous' (McGregor, 2011 p. 2). In support of this argument, McGregor quotes leaders of the Victorian Aborigines progressive association, Jack Patten and Bill Ferguson's joint 1938 statement: 'We ask, and have every right to demand – that you should include us, fully and equally with yourselves, in the body of the Australian nation' (McGregor, 2011 p. xi). Whereas McGregor acknowledges many shortcomings of the policies and culture of assimilation (not least its often racist premises), he fails to clearly differentiate between the 'good' intentions of white administrators such as Hasluck, and the often disastrous outcomes of the policies they advocated. For example, Hasluck's booklets frequently encouraged Anglo-Celtic Australians to play an active role in 'helping' Aboriginal people assimilate into the community. *One People* states: 'without the co-operation' of Anglo Celtic Australians, government efforts to assimilate Aboriginal people will come to 'nought' (McGregor, 2011 p. 90). This seemingly benign directive demonstrates a lack of foresight into the ways in which such an agenda could play out between Aboriginal people and non-Aboriginal people. Anglo-Celts often use the pretext of assimilation to discriminate against Aboriginal people and to assert control and power over their lives as an end to itself.

Furthermore, McGregor fails to explore the motivations behind Patten and Ferguson's seemingly pro-assimilationist statements, upon which he places great emphasis. In the book's concluding statements, McGregor offers the following summary 'They [Patten and Ferguson] had sought inclusion in the Australian nation on terms providing economic security, political representation and a respected role in the life of the community' (McGregor, 2011 p. 183). Another starker interpretation of those statements might more fully acknowledge the many harsh realities Indigenous people faced in the first half of the twentieth century. McGregor fails to conceive that Patten and Ferguson's statements were perhaps born out of hard-nosed political pragmatism that sought to secure the survival of Indigenous people in the first instance.

## The legacies of assimilation

Historian and anthropologist Tim Rowse argues that assimilation is built into the very fabric of Australian society' and that 'we can not say it came to an end' (Rowse, 2005 p. 19). Indeed, in both the public and private sphere, here is continued evidence of the immense social pressure on Aboriginal people to act and be like white Australians. A measure of the acceptance and pervasiveness of assimilationist culture in Australian society is the continued use of Anglo or Celtic names by most members of the Aboriginal community in the southern and eastern states. Australian poet, political activist, artist and educator Oodgeroo Noonuccal (formerly Kath Walker) is one of the few high profile members of the Aboriginal community to adopt a traditional name.<sup>22</sup>

Australia is a remarkably homogenous society, one in which, traditionally, homogeneity has been greatly emphasised as a cultural and social value by Anglo-Celts. Australian homogeneity has many cultural expressions including egalitarianism (at least as an ideal), the uniformity of the Australia accent across the vast continent, an emphasis on team sport (over individual sport), and the so-called tall poppy syndrome.<sup>23</sup> As such, it is important to acknowledge that Australian homogeneity is directed internally at fellow Anglo-Celts, as well as being directed at minorities such as Indigenous Australians and non-Anglo-Celtic immigrants (Koleth, 2010).

In Auntie Joyce's community (she migrated into Wellington from Nanima mission in the 1960s), there is an absence of any visible Aboriginal/Wiradjuri cultural symbols or history in the town's public spaces. A few Aboriginal place names, the odd defiant *Aboriginal Flag*, or an institution such as the Wellington Aboriginal Corporation Health Service are some of the only clues that Aboriginal people have a 50,000 year history within the township. The policies and culture of assimilation in communities like Wellington resulted in a one-way cultural exchange between Wiradjuris and Anglo-Celts. In the twenty-first century, just a single Wiradjuri word has cross-cultural currency in Wellington (Billabong – the Wiradjuri name for the Bell River); no traditional Aboriginal religious or festival day is celebrated; nor is a Wiradjuri sport or game played; no Wiradjuri food dish eaten, nor a Wiradjuri dance danced or song sung. Aboriginal people in Wellington to this day continue to be

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<sup>22</sup> Noonuccal is Oodgeroo tribe's name. Oodgeroo means paperbark tree.

<sup>23</sup> The tall poppy syndrome is a cultural phenomenon whereby members of the community who express their individuality through high achievement are 'cut down' and / or ostracised.



judged by the dominant 'white' community values and terms of reference (with little or no understanding of Wiradjuri values and practices.) Talk to non-Aboriginal people in Wellington and a familiar refrain will often become apparent: As long as Aboriginal people have a job, work hard, obey the law (and look and sound like us) ... they will be accepted and treated as 'equals' in the community. Racist assimilationist attitudes such as these are not confined to small country towns – they have broad national currency. In 1993, star St-Kilda AFL footballer Nicky Winmar, taunted by racist Collingwood fans famously lifted his shirt and said: 'I'm black and I'm proud to be black.' (in the game, at the time, the term 'black' was used as if it were a grave insult (Klugman and Osmond, 2013 ). Collingwood president Allan McAlister some days later, seeking to address racist attitudes in the league inadvertently expressed an appalling racist sentiment of his own:

As long as they conduct themselves like white people, well, off the field, everyone will admire and respect ... As long as they conduct themselves like human beings, they will be all right. That's the key.

(Klugman and Osmond, 2013 )

McAlister's statement reflects the casual and unreflective nature of much racism in white Australian society. He infers that Aboriginal identity and behavior is animal-like or non-human. The culture of assimilation underpins his statement and acts as his justification for telling Aboriginal people how to act in white society.

In 2007, the United Nations General Assembly voted on the International Declaration on the Rights of Indigenous Peoples. The draft legislation asserted Indigenous people's rights to land, resources and self-determination. Whereas 143 nations voted in favour of the draft legislation; Australia, the United States, Canada and New Zealand refused to ratify the declaration. John Howard as Prime Minister explained at the time his government's decision not to support the legislation within an assimilationist rationale: 'We believe that [the Indigenous] future lies in being part of the mainstream of this country' (Haebich, 2008 p. 56).

Post-Mabo, 20, 30, 40 years after assimilation was abandoned as a policy, the social and cultural rupture it caused continues to have devastating repercussions for Aboriginal people. As part of the requirements of Native Title claims, Indigenous people have to demonstrate 'Evidence of Occupation' as per sections s47A and s47B

of the Native Title Act. This has been interpreted by the courts to mean that ‘one or more members of the claim group’ has ‘traditionally occupied land’ in a way that is ‘neither random nor co-incidental but in accordance with the way of life, habits, customs and usages of the group’(Australia, 1993). Many stolen generation Aboriginal people (who were institutionalised at a young age in ‘homes’ for Aboriginal children or who were the subjects of forced adoption into white families), or more fully assimilated individuals and families, now struggle to meet these Native Title requirements. The report of the National Sorry Day Committee, under the heading: ‘Long-term impacts’ states: ‘the forcible removal of Aboriginal children irrevocably broke parental links; severing cultural connection to family and country’. Research undertaken for the *Bringing them home* Report found that the Stolen Generations are disadvantaged in a number of ways. They are more likely to suffer low self-esteem, depression and mental illness and come to the attention of the police as they grow into adolescence. They are more vulnerable to physical, emotional and sexual abuse. They were often taught to reject their Aboriginality and Aboriginal culture and as a result Stolen Generations people often are unable to retain links with their land or take a meaningful role in the cultural and spiritual life of their former communities. All these factors were found to make it much harder for Stolen Generations people to successfully claim native title rights (Commission, 1997 p. 178).

Foley’s pessimistic views on assimilation reflect the on-the-ground situation in communities like Wellington, New South Wales where the ‘assimilation project’ is highly advanced:

We need to remember the old saying, *assimilation equals genocide*, because the logical end result of assimilation is that Aboriginal people with Aboriginal cultural values no longer exist. So unless we want a future Australia where there are no Aboriginal people, but rather people who are brown on the outside and white on the inside, and who talk, think and act like white people, then we need to debate, challenge and resist the dominance of assimilationist ideas and policies that abound in Australia today.

(Foley, 2014b)

In my interview with Michael Anderson he emphasised the ‘trauma’ and

‘dysfunctionalism’ caused by 70 years of formal assimilation policies. In his view ‘about 30 percent’ of the Aboriginal population ‘are still trying to find their way home [to] acquire some association with their families and connection to their country’. Another 60 percent, who live in community and on traditional lands have ‘lost their cultural practices, their ceremonial practices, totemic ties to country, and they're now searching to get back there’. Anderson described these Aboriginal people as ‘in-between people, who don't understand exactly where they fit in with Western society, don't understand where they fit in Aboriginal society’. The government exacerbates these problems by suggesting that the remaining 10 per cent ‘tribal Aborigines’ are the only ones who really count. These assertions ‘exacerbate that pain and hurt and trauma that [displaced and culturally alienated individuals] have experienced’. He went on to state:

Our spiritual and emotional well-being has been totally disrupted and disturbed by government policies. Unfortunately suicide rates are astronomical now among young people because they don't know who they are, they don't know where they fit and what they're going to do, they don't see the leadership there in Aboriginal communities and it's sad. Very sad.

MG: Is cultural assimilation intrinsically racist?

Michael Anderson: Absolutely. Absolutely.

MG: Is assimilation akin to cultural genocide?

MA: Assimilation is genocide.

(Anderson, 2014 p. 15)

It is important to quantify Anderson and Foley’s statements relative to their lived experience, and the social milieux both have inhabited across their long lives. Both were raised in urban rural settings in New South Wales, one of Australia’s most assimilated states. Anderson now lives in ‘country’ on his property near Brewarrina, New South Wales. Foley has lived in Melbourne for a number of decades, a city with a relatively small Aboriginal population. Their statements relating to the state of Indigenous assimilation are perhaps best understood to reflect the status of Aboriginal people living on Australia’s southern and eastern sea board states: South Australia,

Victoria, New South Wales and Queensland. In contrast to these communities, many very remote area Aboriginal people speak English as a second language, they have retained their Aboriginal names, their social relations are for the most part determined by their language group's customs and traditions. In contemporary Australia, Yolngu people of Arnhem land and Pintupi and Luritja people of the central deserts draw upon and engage useful Western technologies in their day-to-day lives (they might drive cars, use mobile phones and engage with Western medical services when needed), but in many other respects they live with a relatively high degree of cultural autonomy. This is not to state that their relative autonomy is not challenged or under threat. The Intervention, formally referred to by the Australian government as The Northern Territory National Emergency Response, clearly demonstrates this point. However, the degree to which these very remote area Aboriginal people are assimilated into Australia society is different to their eastern seaboard cousins. Assimilation in Australia has taken many forms; it has evolved over time, and its reach and impact on Aboriginal communities vary across Australia.

### **Assimilation and the *Aboriginal Flag***

As noted in Chapter 1, Harold Thomas is a stolen generations person. He was taken from his family when he was six years old and placed in an institution for Aboriginal children near Alice Springs. Thomas was only to see his mother once again in his life. At seven years of age he was moved 1,500 kilometres away to a training centre for boys called St Francis House, located in a coastal suburb of Adelaide where he lived with other Aboriginal boys. At 12, he was fostered to a white family. These events in Thomas's life deprived him, in his youth, of his Aboriginal family, his Aboriginal cultural milieu, his connection to his traditional lands and parts of Aboriginal cultural heritage. Collectively these events significantly altered his sense of identity. He did not become white, rather he became a stolen generations individual. His identity and outlook is that of a displaced Aboriginal who had only a few brief years of contact with his Aboriginal family. He was subjected to what many consider to be the most brutal form of assimilation: 'Child theft' (Rowse, 2005 p. 20). Thomas' life story is shared by many Indigenous Australians. As a child Auntie Joyce was taken late one night by her grandparents to a neighbouring town to avoid being removed from her parents and her Aboriginal community by the Australian government. Many more

were less fortunate. From approximately 1910 until 1970, between one in three and one in ten Indigenous children were forcibly removed from their families and communities (Commission, 1997 p. 31). Thomas, his 15 siblings, and his parents, are all stolen generations Aboriginal people.

At 24 years of age, as an arts school graduate and employee at the Australian Museum in Adelaide, Thomas conceived and designed the *Aboriginal Flag*. It is important to acknowledge that beyond his political and social motivations for creating the flag, his act spectacularly contradicted a lifetime's assimilationist indoctrination. For a stolen generations person to design an *Aboriginal Flag* was a demonstration of tremendous Indigenous spirit and strength of character and an emphatic rejection of his assimilation into Anglo-Celtic Australian society. It was not something he did without considerable anxiety: on the day Thomas first flew the flag in public on 21 July 1971, National Aborigines day, he felt 'apprehension' that authorities might view his *Aboriginal Flag* as 'an act of treason' (Williams, 2013). There are many historical accounts of how seriously some 'governments', fascist dictatorships and republics take the symbolic gesture of raising an independence flag. West Papuan independence leader Filip Karma, is currently serving a ten year prison sentence in Indonesia for 'raising the Morning Star flag' (Michael, 2014).

In the twenty-first century, Indigenous Australians fly the *Aboriginal Flag* every which way they can. It is flown at the Tent Embassy and above the great majority of their civic buildings and public places; and at social gatherings such as their funerals, weddings, corroborees and sport matches. It is displayed on their homes and cars; and tellingly, on themselves reproduced on a T-shirt, badge, tattoo and any other form of paraphernalia available. If the flag is not itself displayed, it is often symbolised by the colours black, red and yellow ochre, or simply scratched or spray-painted as graffiti as a schematic design. In these many contemporary contexts the *Aboriginal Flag* has a special role and use for fair skinned Aboriginal people whose Indigenous cultural identity might not be immediately apparent to members of the wider population. Whereas these gestures and expressions of Black Pride, in the twenty-first century are entirely familiar and commonplace, just a few decades ago it was rare for Aboriginal people to express public pride in their Aboriginal identity. Prior to the flag's conception in 1971, Aboriginal people simply did not have a symbol of their Black Pride and identity. Clearly, the *Aboriginal Flag* has played an important role in facilitating and affirming the expression of those sentiments. In Thomas's words,

Aboriginal people see confirmed the *who* and *what* of Aboriginal identity expressed in *their Aboriginal Flag*:

When we looked back, a lot of people were ashamed of their Aboriginal identity, because of that suppression. Well, the flag kind of helped that. They said, 'At least, if I can wear it on myself, wear a T-shirt with it, or the colours, it's a signal to other people in the community I'm proud I'm Aboriginal, I'm proud to wear the colours.' And that's important -- I like that.

(Thomas, 2002)

For non-Aboriginal people, and even Aboriginal people of a younger generation, who have not been subjected to the full force of the culture and policies of assimilation, it is perhaps hard to fully comprehend the extent to which assimilation represents a deeply personal affront to the very essence of one's sense of self and self-identity. Sally Morgan's book, *My Place*, chronicles the pain and suffering caused by racism and assimilation on a family. The author's mother and grandmother hide their Aboriginal identity from their children (Morgan, 1989 p. 97), and live for decades in a heightened sense of fear of both white people and any government authorities (Morgan, 1989 p. 104). The Australian government, through its policies of assimilation, sought to change the way Aboriginal Australians think, live and self-identify. As affirmed by Foley and Anderson this multi-generational campaign achieved its goals in many parts of Australia. The policies and culture of assimilation are on a par with some of the worst historical violations of individuals by governments the world witnessed in the twentieth century. The Australian government, in this respect, was not dissimilar to communist governments of Stalinist Russia and central Europe; the Khmer Rouge in Cambodia and the Democratic People's Republic of Korea in North Korea that all sought to 're-educate' their citizens' thoughts. I was again painfully reminded of this fact in late 2015, as I watched well-known Indigenous poet/writer/performer Lionel Fogarty, read some of his poems at Woodford festival in late 2015. The following poem (reproduced in part) is typical of his oeuvre:

I am frill necked lizard  
 roaming, providing  
 I am refuge by king brown taipan  
 highly delightful sea bird  
 catches the flint of my star skin colour.

I.  
 Am we pelican of woodlands broлга  
 traditional yamming  
 yes roots, nuts  
 differ to geese, hawks, quails  
 that number plentiful.

I am death  
 Harmless.  
 You are tropic cycles  
 Swamps got bad affinity  
 Says who.

Later I am digging sticks  
 Then I am seeds winnowed for damper  
 I am club, woomera,  
 an agile well-balanced bandicoot  
 flying fox and an ABORIGINAL  
 our systems woven from an eco-system  
 so don't send us to pollution  
 we are just trying to picture  
 this life without frustration

I July 1982





Figure 5.11: Lionel Fogarty. Date and photographer unknown.

On stage, Fogarty asserted his Aboriginal identity in every possible way. He wore a custom made T-Shirt the sleeves of which were large *Aboriginal Flags*, his entire outfit consisted of the colours black, red and yellow ochre (Figure 6.11). Every poem he recited affirmed with passion and conviction his Indigenous identity. At times, his frustration and anger appeared to make it hard for him to talk. Distressed, he told the audience of his brother's death in police custody when he was a young man and of many other violations he and his people have suffered. Fogarty's and other Aboriginal people's displays of the *Aboriginal Flag*, and by association, the affirmation of their Black identity, is not banal. It represents, as articulated by Thomas, a deeply personal statement against the project of assimilation that reverberates with defiance, urgency and meaning to this day: 'I'm proud I'm Aboriginal, I'm proud to wear the colours'.

## 6

**Social Change and the *Aboriginal Flag***

Djon Mundine: I do remember in the 80s, [the] Aboriginal flag ... started to enter those remote communities and those people started to see that as their flag. So that was a really interesting development to see. Before that it was seen as just [the flag] of radical people and uncompromising people that were stupid, that Loony Left, or whatever. But in the 80s, it came into the communities that I lived in and worked in and became more widespread.

(Watson et al., 2017b p. 13)

In 1971, not a single *Aboriginal Flag* flew and symbolically ‘crowned’ and ‘claimed’ any Australian public buildings and the associated symbolic political and legal space. In the second decade of the twenty-first century, the *Aboriginal Flag* is omnipresent across Australia’s public domain. The history of that change and its meaning and significance, is documented in this chapter, and also in the ensuing concluding chapters. While neither Indigenous nor non-Indigenous Australians ever voted in a formal way to legitimise the *Aboriginal Flag* (in a way that reflects formal democratic processes), there are clear milestones in the flag’s history as a sign, symbol, vehicle and catalyst for change. For the purposes of best exploring the *Aboriginal Flag* as a symbol and catalyst for change, this chapter focuses on several key episodes in its history: the burning of the flag by Shoalhaven mayor Alderman Greg Watson, the 1988 bicentenary protests and the 1994 Commonwealth Games. These historical events have been selected because they best reveal the flag’s social contexts and its dynamism as a catalyst for change. Whereas these milestones do not have the numeric clarity of an election, they do reveal quantifiable change in social attitudes towards both the flag and Indigenous affairs. The final section of the chapter argues that the *Aboriginal Flag* has transcended race relations and more broadly acted as a catalyst for change in attitudes towards multiculturalism in mainstream Australian society. The contemporary practice of flying the Aboriginal and Torres Strait Islander flags in the public domain represents a decisive shift towards cultural pluralism and tolerance, and the fracturing of Anglo-Celtic cultural hegemony in Australia society.

### **The Tent Embassy and the *Aboriginal Flag***

Harold Thomas's *Aboriginal Flag* was first flown in 1971 at a demonstration in Victoria Square in Adelaide that marked National Aborigines Day (July 12). It could easily have had a short life as a work of political art, and remained in his studio folded away in a drawer after just a single outing. Instead an Aboriginal woman who had seen Thomas's flag the day it was first flown made a number of copies;<sup>24</sup> and activists like Gary Foley and 'the mob who brought the flag up from Adelaide' to the Tent Embassy's third and final confrontation, rallied behind the flag and ensured its mantle as the new pan-*Aboriginal Flag*. These events are canvassed across this thesis, and in Chapter 3 that documents the flag's arrival at the Tent Embassy, the flag's springboard.

The presence of three *Aboriginal Flags* at the Tent Embassy strongly suggests Aboriginal people wanted a flag of their own. A pan-*Aboriginal Flag* was inevitable. The Tent Embassy action, and the preceding National Aborigines Day march – though very significant in themselves – do not, however, reveal how the flag brought about social change. In part, this can be explained by the newness of Thomas's flag – it had not had time to bring about social change – and by the fact that in Canberra it was overshadowed by the powerful idea and concept of the Tent Embassy itself. Over the following decade, the *Aboriginal Flag* became the principal symbol of Aboriginal Australia. Its many dynamic physical and conceptual qualities as an activist symbol aided this process. Unlike the Embassy, the flag did not require a band of activists to occupy and maintain its symbolism; it cost very little to make and reproduce and it could be run up an existing flagpole anywhere in Australia. In part as a result of these characteristics, the flag rather than the Embassy, became the central symbol of nationwide Indigenous activism and change in the 1980s. As a result of its elevated significance, the *Aboriginal Flag* became the focus of symbolic racist attacks on Aboriginal identity, culture and claims of land rights.

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<sup>24</sup> In an informal unrecorded conversation on the 17 February 2016 with the author, Thomas stated that after the flag's first outing, an Aboriginal woman asked his permission to make a number of copies of his flag. These flags might have been the ones that ended up being taken to the Tent Embassy's third confrontation in July 1972.

### **1982, Shoalhaven Mayor burns the *Aboriginal Flag***

Eleven or so years after the *Aboriginal Flag*'s first public outing in Adelaide, the Mayor of Shoalhaven council in New South Wales, Alderman Greg Watson, with the media support and assistance of Carl Egan, the proprietor of the *Shoalhaven and Nowra News*, burnt the *Aboriginal Flag* on National Aboriginal Day on 9 July 1982. Three days before these events, Mayor Watson was reported in the *Shoalhaven and Nowra News*, stating:

Any request by the Aboriginal community to fly their flag at the city administration centre would be refused. Council has not yet been asked but I have no intention of allowing it to be flown in front of any council building.

(Kondos, 1982 p. 14)

A number of issues relating to race relations and land rights foregrounded these events. At a local level, the Terringa Tribal Council were petitioning for the creation of an 'Aboriginal place' on Crookhaven Head which would involve the transferral of Crown land (formerly a community sports ground) to the National Parks and Wildlife Service (Kondos, 1982. See Appendix). At a state level, the Wran Labor government was introducing the 1983 *Lands Rights Act* to the state parliament, which was causing anxiety among non-Aboriginal land owners across the state of New South Wales (Kondos, 1982. See Appendix). Finally, the Council for Aboriginal Unity had initiated a state-wide campaign that petitioned state councils to fly the *Aboriginal Flag* on National Aborigines day (Enright, 1982). In defiance of the Mayor's unilateral statement Bruce Walker, a council ranger assisted local Aboriginal representative Mr Jerry Moore, in a short flag raising ceremony. In defence of his actions, the Mayor was later to write to the Hon. A.J. Grassby, Commissioner for Community Relations on 20 July 1982:

Mr. Commissioner, I said at the time and have repeated on numerous occasions, we are all equal whether black or white as citizens of Australia as such have only one national flag.

(Kondos, 1982. See Appendix)

These events, and the ensuing controversy, were to become the subject of a first-year class study and publication produced by the Race Relations research class led by Dr Alex Kondos at the School of Sociology, UNSW. Entitled *The Burning of the Aboriginal Flag: A Study of Racism in Shoalhaven (NSW) 1982*, this paper is the only academic study the author has been able to source that concerns itself with issues relating to the *Aboriginal Flag* (Kondos, 1982). The University of New South Wales School of Sociology study involved an extensive ‘systematic stratified random sampling’ survey in which 10 per cent of the Shoalhaven and Nowra community were sent a one-page questionnaire containing six questions and four demographic questions. A high proportion of the questionnaires (44.2 per cent), representing the views of 618 local people, were completed and returned (the average response rate for similar surveys at the time of the survey was 25 per cent.) The ‘scientific’ methodology of the survey offers a relatively objective, historic record of community attitudes towards the flag and Indigenous affairs in New South Wales during the early 1980s (Figure 6.1). It is important to note that the survey questions did not reference concurrent local and state issues relating to Indigenous affairs. In addition to the survey, the questionnaire made space for ‘general comments’, which nearly all of the respondents used to express their opinions. These comments reveal that many members of Shoalhaven and Nowra community held strong, divergent opinions on the Mayor’s decision to burn the *Aboriginal Flag*:

‘Mr Watson was quite right to do what he did. A PROUD MAN OUR MAYOR’.

(Male, 35–49, employed)

(Kondos, 1982 p.16)

‘Next time, I’ll give him a hand’.

(Male, 50–64, employed)

(Kondos, 1982 p.17)

‘While I think the flag burning was a foolish action, I agree with the mayor’s views on land rights’.

(Female, 35–49, employed).

(Kondos, 1982 p.17)

‘Like the Mayor of Shoalhaven, I agree with the burning of all rubbish.’

(Female, 25–34, employed).

(Kondos, 1982 p.1)

‘Flag burning incident apparently resulted after a meeting between a well known press agent in Nowra and the Mayor. The media rep was present at the time’.

(Female, 25–34, unemployed teacher).

(Kondos, 1982 p.5)

‘I think it’s a bloody disgrace that anyone should do such an act and must be regarded a racist’.

(Male 50-64, pallet carpenter, unemployed). (Kondos, 1982 p.17)

‘A fascist act at any time cannot be condoned. We are a multi-racial nation, each ethnic group with our own identity.’

(Male, 50-64, labourer).

(Kondos, 1982 p.18)

## SURVEY RESULTS

### I. Overall Pattern of Responses:

Before we present a detailed analysis of the data (see Section II below), it is necessary to examine the overall pattern of the responses that 618 people (44.2% of our sample) made in answering the six questions centering on the 'flag-burning' incident:

#### QUESTION 1

How do you feel about the Mayor of Shoalhaven's action in burning the Aboriginal flag on National Aboriginal Day?

Strongly disapprove	26.9	}	44.8
Disapprove	17.7		
Neutral	13.0		
Approve	19.2	}	42.2
Strongly approve	23.2		

#### QUESTION 2

How would you describe the Mayor's action of burning the flag?

Within the scope of the Mayor's duties	36.3
Outside the scope of the Mayor's duties	54.0
No opinion	<u>9.7</u>
	100.0

#### QUESTION 3

Should Aborigines be allowed to fly their flag on National Aboriginal Day?

Yes	56.4
No	39.4
No opinion	<u>4.2</u>
	100.0

#### QUESTION 4

How do you view relations between Aborigines and the rest of the community in Shoalhaven district?

Very good	6.7	}	27.6
Good	20.9		
Fair	38.5		
Poor	20.3	}	34.0
Very poor	13.7		

#### QUESTION 5

What effect do you think the flag burning incident has had on relations between Aborigines and the rest of the Shoalhaven community?

Positive	19.9
Negative	35.2
No Effect	<u>44.9</u>
	100.0

#### QUESTION 6

Would you agree to a public inquiry into the Mayor's actions?

Yes	33.3
No	62.3
No opinion	<u>4.4</u>
	100.0

Figure 6.1: UNSW School of Sociology, Race Relations Research class study and publication (led by Dr Alex Kondos). *The Burning of the Aboriginal Flag: A Study of Racism in Shoalhaven* survey results. 1983.



Racist sentiments like those documented in the survey were not confined to the Shoalhaven district of New South Wales. In response to Aboriginal protests in regard to the 1982 Commonwealth games in Brisbane, the then Queensland Minister for Aboriginal and Islander Affairs told radio New Zealand that Aboriginal people ‘didn’t’ know what freehold title was, that they drank a lot, ate goannas, fish and birds, and that no one liked them very much’ (Watson, 1988 p. 39).

The study *The Burning of the Aboriginal Flag: A Study of Racism in Shoalhaven* reveals much about social attitudes relating to both the flag and the concerns of Aboriginal people across Australia in the early 1980s. A few key points can be deduced from the study. A significant proportion of the Shoalhaven community held racist views. This is one of the findings listed in the publications ‘Summary and Conclusions’. The *Aboriginal Flag* was perceived as an affirmation of multicultural ideals. A number of comments in the survey make reference to the flag in relation to Australian multicultural identity. The *Aboriginal Flag*, as a symbol of Indigenous cultural identity, was perceived as a threat to the culture and policies of assimilation. The premise underlying the Mayor’s statement “we are all equal whether black or white as citizens of Australia as such have only one national flag” is an expression of belief in Anglo-Celtic ethnocentric Australian society; one which historically pursued policies of assimilation. Finally, land rights activism and the *Aboriginal Flag* were linked in the public’s consciousness. Flying the flag on National Aborigines Day in front of the community’s council chambers was linked to Indigenous claims and assertions of land rights such as Crookhaven Head land claim.

As documented in the study, Ms Carmel Niland, President of the Anti-Discrimination Board in 1982, in response to the actions and statements of mayor Watson, refuted the claim that flying the *Aboriginal Flag* ‘Showed disrespect for the Australian flag which was flying on an adjacent pole’ (Kondos, 1982 p. 7). Ms Niland asserted that: ‘Fifty-eight Shires and councils in this state were proud to fly the flag on National Aborigines Day’ (Kondos, 1982 p.7). In 1982, according to the 2014 New South Wales Department of Local Governments, there were 177 shires and councils across New South Wales. Less than a third had a policy of supporting National Aborigines Day, by flying the *Aboriginal Flag*. The controversy in Shoalhaven revolved around the temporary raising of the *Aboriginal Flag* on a single day of the year, National Aborigines Day. In Shoalhaven the main protagonist, indeed, the person acting most like an activist was Mayor Watson, the burning of the flag has all

the hallmarks of an activist media stunt. By pre-empting any request to raise the flag, the mayor provoked members of the Aboriginal community into action. Jerry Moore decided to fly the *Aboriginal Flag* after reading the Mayor's statement in the Shoalhaven and Nowra News (Kondos, 1982 p. 8). Moore's actions are best understood as reactive rather than proactive. The Shoalhaven case study reveals that the idea of the *Aboriginal Flag* was understood by both the Aboriginal and non-Aboriginal community to be very powerful. The *Aboriginal Flag*, for the entire community represented a number of controversial issues: sovereign Aboriginal culture and identity, local and state-wide Aboriginal land rights, and defiance of the culture and policies of assimilation and multiculturalism.

The strength of the *Aboriginal Flag's* design, its ability to signify and embody complex issues makes it a powerful vehicle for activism. Ironically, in Shoalhaven, Mayor Watson kicked an own goal; his activism further raised the profile of the *Aboriginal Flag* and the issues it represents on the national stage; in a sense, the flag successfully goaded Mayor Watson into revealing the ugly face and flawed logic of racist attitudes towards Aboriginal people in Australia. In Shoalhaven, in the early 1980s, however, there is no quantifiable evidence that attitudes relating to race relations changed. A year after the flag burning incident, when the survey was held, 42.2 per cent of the population 'approved' or 'strongly approved' the Mayor's action of burning the flag, 56.4 per cent thought that Aborigines should be allowed to fly their flag on National Aborigines day, 44.9 per cent believed that the flag burning incident had 'No effect', and a further 35.2 per cent believed it had a 'Negative effect' on race relations in the community (Kondos, 1982 p. 14). In the absence of either earlier or subsequent surveys, the 1982 survey simply reveals the status of the flag and attitudes towards Aboriginal people and their issues in the early 1980s.

How the *Aboriginal Flag* came to be accepted and even celebrated, is best explored and understood through the events of the 1994 Commonwealth games. Twenty-three years after the flag's conception and 12 years after Mayor Watson's flag burning stunt, a young gold medal winning Aboriginal athlete would change Australia's perception of the *Aboriginal Flag*; and in doing so, contribute significantly to change in mainstream attitudes towards Aboriginal people, their social and political concerns and multiculturalism in Australia. This argument is supported by Harold Thomas. In an interview with *Crux Australis* journal, he stated that the flag has contributed to 'a shift to Australians being more accepting of different people'

(Thomas, 2009 p. 39). Preceding the 1994 Commonwealth games, the fault lines of race relations were brought into sharper national focus by the highly successful Aboriginal protests of the 1988 bicentenary celebrations.

### **The 1988 bicentenary celebrations**

The period 1950–70 witnessed the most intense enforcement of assimilation in Australia’s history, a period during which, concurrently, Australian and global race relations were undergoing dramatic transformational change in response to the great global social upheavals of the period: decolonisation and civil rights. The pendulum swung, assimilation became a dirty word; it gave way to the more accommodating idea of multiculturalism. In March 1977, the Hon. Ian Viner, Federal Liberal Minister for Aboriginal affairs gave a speech titled *Aboriginals in Multi-Cultural Australia* which reveals how dramatically the Liberal Country Party policy had shifted in just a few short years since McMahon’s ill advised speech in 1972. In his speech, given in one of Australia’s more conservative states, Western Australia, Viner states that assimilation was based on a ‘false’ assumption that to forge a nation everyone’ had to conform to a ‘uniform straightjacket in the interests of maintaining our British cultural identity’. He goes on to say that:

assimilation did not work because it was an imposed solution. More than that, it was seen to deny to people their heritage, the language and customs that gave them spiritual security and social identity.

(The Hon. Ian Viner, 1977)

If there were Indigenous Australians in the audience, their enthusiasm for Viner’s multicultural vision for Australia might have been tempered and conditional. Indigenous scholar, author and artist Sally Morgan (winner of the 1987 Australian Human Rights Award for Literature for her bestselling book *My Place*) expresses a commonly held view among Indigenous Australians:

There has to be a separate role for the first nations people of any country. I am for multiculturalism but my personal view is that when a country, regardless of what country it is, has an indigenous population then those indigenous people

should have a primary place of honour within the overall society because they are the indigenous people.

(Ben-Messahel, 2000)

Indeed Indigenous experience of Australia is profoundly different to that of recent migrants to Australia. For millennia, over 1,000 generations, Aboriginal Australians have shaped, and have been shaped, and continue to be shaped by the Australian landscape. Through their deep historical knowledge and ancient cultural connection to their land, Aboriginal Australians affirm with moral authority their status as custodians of the flora, the fauna and the landscape of Australia.

Ann Curthoys argues that the linked study and discussion of ethnic minorities – for example Chinese Australians and Indigenous people – has been resisted on many fronts (Curthoys, 2000 p. 21). It was only in the 1980s that ‘parallels between indigenous and multicultural issues were at last drawn in official, intellectual and public arenas’ (Curthoys, 2000 p. 28) and that ‘On some occasions the interests of indigenous and multicultural pressure groups coincided’ (Curthoys, 2000 p. 29). In support of her argument, Curthoys references the bicentennial 1988 celebrations propaganda ...

The ideal of cultural diversity reached new prominence and acceptance in the 1988 bicentennial slogan of ‘Living Together’. The bicentennial planning objectives were to ‘celebrate the richness of diversity of Australians’.

(Curthoys, 2000 p. 30)

Australia’s 1988 bicentennial celebrations witnessed resistance from both Indigenous and non-Indigenous migrant Australians, both of whom had been the subjects of assimilation and found themselves in 1988 still ‘excluded from the benefits of mainstream Anglo Celtic Australia’ (Curthoys, 2000 p. 29). The two documentaries made about the bicentenary, *88: The True Story of the March that Changed a Nation* (2013) and *Australian Daze* (1988), record migrants voicing their support (as fellow ethnic minorities) and attending the Aboriginal Bicentenary protest march. *88*, which aired on ABC 1 TV in January 2014, documents the great lengths Indigenous Australians went to protest Australia’s bicentenary. Inspired in part by the ‘Caravan

Movement' initiated by American Indians in the 1970s which entailed convoys of cars, trucks and caravans traveling around American states to raise awareness of the Indigenous American Indians' issues, Indigenous Australians in 1988, formed high media profile convoys of buses, cars and trucks full of Aboriginal people. These convoys travelled massive distances (Perth to Sydney (3415 kilometres), Darwin to Sydney (3751 kilometres), Hobart to Sydney (1061 kilometres)) dramatically enabling Indigenous Australians to stream in from the continent's corners to attend the Sydney protests.

Australia's 1988 bicentennial celebrations mark a high point of mass pan-Australian Indigenous solidarity and protest (Figure 6.2). The 'white' party went all day but the sentiment of celebration was undercut by a sea of black red and yellow ochre flags that stretched from Redfern to Mrs Macquarie's Chair where the re-enactment of the first fleet's arrival, the invasion of Australia by boat loads of convicts and their overseers, could be witnessed. The march, attended by between 30,000 to 40,000 people was the largest seen in Sydney since the anti-Vietnam War marches of the 1960s and 1970s. With the whole world watching, the very premise of the bicentenary was questioned. What exactly was Australia celebrating? A 'fair go for all' as pronounced by Prime Minister Bob Hawke (Fiske, 1988)? Aboriginal Australia saw an opportunity to express a radically different Indigenous perspective on 200 years of European colonisation and proclaimed their presence on the political, moral and social stage with their slogan: 'We have Survived'. Alongside the 'Aboriginalification' of Australian history and ongoing claims for land rights, Aboriginal people demanded political and moral recognition of their special place in Australian society as the nation's first Australians. The march encouraged Anglo-Celts to start viewing themselves as just one ethnic group among many in Australian society. In the view of art historian and critic Terry Smith, the protests represented an 'enormously successful cultural intervention' (Smith, 2001 p. 636).



Figure 6.2: Liver Stewed. 1988 Aboriginal bicultural demonstration featuring Aboriginal Flags. 1988. C type photograph.

The Commonwealth Labor government in 1988 recognised the need for a proactive government stance and launched ‘National Agenda for a Multicultural Australia’ which covered a range of social justice, language, culture and citizenship issues (Curthoys, 2000 p. 29). Whereas the Labor government and centre right liberals supported multiculturalism, conservative liberal John Howard, who would become prime minister in 1996, did not. He disbanded the Office of Multiculturalism shortly after being elected and initially banned the use of the word ‘multiculturalism’ within the public service (Haebich, 2008 p. 378). By 1998, Howard would accept the term, as long as it stood for ‘community harmony and tolerance’; but not if it implied ‘one great national cement of Australia is multiculturalism’ (Steketee, 2002). A decade and a half later, as assimilationist forces reasserted themselves under Howard, a Tiwi Islander Elder speaking in relation to refugees seeking asylum to Australia made the following comment:

We watch the news and read the paper. We’re not stupid people, we’re educated. We know what it means to be non-Australians. If that boat comes

back, we'll welcome them and give them food and water. You know why?  
Because we're all one group – Non-Australians.

(Haebich, 2008 p. 60)

The depth of feeling and purpose expressed in this quote gives an indication of the sense of exclusion and hostility some minority groups continue to feel into the twenty-first century towards Anglo-Celtic hegemony (and racism) in Australia. 88 and *Australian Daze* recorded a different sentiment among the Indigenous protestors at the Sydney Bicentenary protests. In 88, the march's key moment is relived in a number of moving interwoven accounts:

Linda Burney:

The most incredible moment in that march was coming down Elizabeth Street and turning left in Eddy Avenue, under that railway bridge, I'm getting goose bumps just thinking about it now.

Dr Anne Patel-Gray:

As we are coming up to that tunnel we had no idea how many white fellas would be there, none what-so-ever. Charles and I looked at each other with great trepidation, and thinking 'Gee, will there be many white people come to support us?'

Then we saw all these white fellas. This loud roar come through the tunnel at us, it was deafening.

That day was the beginning of true reconciliation as we have never seen it before, it was genuine, because white Australia did acknowledge for the first time, by their presence in that park that Australia has a black history.

Among those cheering was a young Aboriginal teenager who had been fostered into a white family as a child. She recalls in the documentary, telling her adopted parents

that her place on that day was over the fence with her people. With her parent's consent, she was soon among the front line of demonstrators marching with her Indigenous brothers and sisters. For a non-Indigenous person such as myself, the Indigenous protestors are remarkable for the generosity of spirit they collectively demonstrated on that day. After 200 years of brutal colonisation, beneath the angry banners and slogans, within their hearts, the marchers sought both acknowledgement of past wrongs and reconciliation. In the 88 documentary's final minutes, some of the activists recollect spotting a single *Aboriginal Flag* hanging from a building site crane, an unusual sight at the time. In the documentary, John Christophersen speaks of the significance of that flag:

A lot of [white] people thinking about it, and prepared to fly the flag for it [reconciliation]. That was what it was all about, flying the flag. That made us truly proud, to be part of that. It was real deadly, a real black day.

For many Indigenous and non-Indigenous Australians, reconciliation at a grass roots level started on 26 January 1988 (Russell Willis, 2014). Like wedges in a giant boulder, Indigenous Australians at one end, and migrants at the other, hammered open a space for cultural diversity in Australian society. Across the symbolic and political landscape, a fracture cut its way through white homogeneity. Where once, only a single flag could represent Australians, from that day on, two flags, two cultures, could and increasing did (the Torres Islander flag would soon make that number three in 1992). By inference, in 1988, Australia revealed itself as a nascent multicultural society, at least on a symbolic level.

### **The 1994 Commonwealth Games**

At the 1994 Commonwealth games in Victoria, Canada, two years after the controversial Mabo high court ruling and one year after the Federal Parliament passed the *Native Title Act 1993*, Cathy Freeman won the 400 metre women's sprint final. Immediately after the race, in a premeditated activist action, she went to her friend Peter Jess in the crowd who handed her the *Aboriginal Flag* she had brought with her to Victoria (Figure 6.3). In front of an estimated TV audience of 300 million, Freeman then held up the *Aboriginal Flag* in triumph. David Callow's iconic image of that



moment captures an un-smiling defiant Freeman. Her feet are barely touching the ground, her arms are raised in a 'V' for victory configuration, stretched across her clenched fists is the *Aboriginal Flag*. In that moment Freeman transformed an act of sporting prowess into a political act. Without the flag, Freeman's actions would simply have represented Aboriginal athletic prowess, in ways that mirror demonstrations of apolitical athletic prowess by Indigenous sports superstars such as Lance (Buddy) Franklin and Greg Inglis. Historic film footage of that moment documents Freeman then being handed an Australian flag, which she accepts. Armed with a beaming smile and her two flags, Cathy proceeds to run her victory lap (Figure 6.4). Whereas the Australian press on the whole celebrated Freeman's black pride action, the manager of the Australian Commonwealth team, Arthur Tunstall, a man with a reputation for being an outspoken and conservative sport administrator, had a different take. Later that day he issued a statement in which he affirmed that the 'The Australian athletes are competing in the 15th Commonwealth Games under one flag – the national flag' (CP, 1994 p.9). He instructed team manger Margaret Mahony to advise athletes not to fly flags other than the Australian flag, which she declined to do. A few days later Cathy won the women's 200-metre sprint final and again, in what would become a familiar sight at other athletic meetings and games including the 2000 Olympic games in Sydney, she once again ran a lap of victory with both the Aboriginal and Australian flags.



Figure 6.3: David Callow. Cathy Freeman. 1994. C type photograph.<sup>25</sup>

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<sup>25</sup> Callow's photo was taken immediately after Cathy Freeman won the 400m woman's sprint final at the 1994 Commonwealth Games. Courtesy of SPORT, The library.



Figure 6.4: Photographer Unknown. Cathy Freeman. 1994. Commonwealth games.

Until the 1994 Commonwealth games the *Aboriginal Flag* had been strongly associated with feelings, ideas and events that made many white mainstream Australians feel uncomfortable (Given, 1995 p. 50). Aboriginal people, as ethnic other, evoked fear, revulsion and other racist feelings in many Australians, and by association, so did the flag. Ideas like Black Power, sovereignty, land rights, all linked to the *Aboriginal Flag*, were correctly understood to be a challenge to white

hegemony. Events and actions like the establishment of the Aboriginal Tent Embassy and the boycotting of the 1982 Brisbane Commonwealth games reinforced these associations of Black Power and confrontation. In Shoalhaven, the flag channelled local and state issues, such as the proposed transferral of Crookhaven Head Crown land to the National Parks and Wildlife Service and the introduction of the 1983 Lands Rights Act; and bitter vitriol: 'Like the Mayor of Shoalhaven, I agree with the burning of all rubbish.' For these Australians, the meaning and symbolism of the *Aboriginal Flag* transcended Indigenous affairs and issues and was associated with a broader contested cultural transformation of Australian society (that was also perceived as a challenged to white hegemony): multiculturalism. This is the subtext of the Mayor of Shoalhaven, Alderman Watson's earlier recorded comment 'we are all equal whether black or white as citizens of Australia as such have only one national flag', and Arthur Tunstall's Commonwealth games stance that tried to insist that athletes are competing 'under one flag – the national flag'. In other words, your ethnicity is irrelevant, we all have one flag and by inference one cultural identity in Australia: *Anglo-Celtic*.

Jock Given, media and communications academic, argues that major sporting events such the Olympic and Commonwealth games are 'critical ideological sites' where nations develop 'key social values about nationalism, winning, 'anti-politics', authority and economics' (Given, 1995 p. 52). In his article 'Red, Black, Gold to Australia: Cathy Freeman and the Flags' he explores the meaning of Freeman's actions and how the cocktail of sport, winning, the flag, and the media helped change Australia's perception of the *Aboriginal Flag*:

The potency of Cathy Freeman's action in Victoria was the conscription of international media and public attention not just to a sign – the Aboriginal Flag – but its juxtaposition of that sign with the ideas of the nation and victory. At precisely the moment Australia was experiencing its two yearly overdose of national self-definition (Olympics and Commonwealth Games), Freeman made her statement about what being an Australian meant to her. At precisely the moment that the official Australian flag was being raised a record number of times in gold medal ceremonies at the Commonwealth Games, Freeman put the Aboriginal Flag around the shoulders of a winner.

(Given, 1995 p. 53)

But in fact Freeman did more than ‘put the *Aboriginal Flag* around the shoulders of a winner’. At the 1996 Commonwealth games, and again later at the Sydney Olympic games (2000), Freeman put both the Aboriginal and Australian flags ‘around the shoulders of a winner’. As noted by the then Aboriginal and Torres Straits Island Minister Robert Tickner, Freeman in flying both flags demonstrated: ‘her pride in being Australian and also her pride in being Aboriginal’ (Masters, 1994 p. 64).

Freeman made an unequivocal statement about her multiculturalism, and in doing so, she championed the ideals of multiculturalism: inclusion and racial tolerance. Given documents how a few days into the Victoria games, Freeman led most television news bulletins in Australia, and that her picture with the Aboriginal and Australian flags was on the front page of just about every newspaper (Given, 1995 p. 50). Given notes that the majority of the media and public commentary was positive. Perhaps the public both consciously and unconsciously acknowledged the generosity of her actions in the face of Australia’s Black history – she could very well have not also flown the Australian flag. Freeman’s actions for Given are ‘a defining moment’ in Australian history (Given, 1995 p. 55). The *Aboriginal Flag*’s meaning and associations changed and ‘a whole kind of political rhetoric [conveniently embodied by Arthur Tunstall’s anachronistic stance and comments] finally seemed ridiculous’ (Given, 1995 p. 50).

Whereas the wealth and health of Aboriginal people did not witness dramatic improvements in the mid-1990s and racist attitudes towards Aboriginal people and Freeman in Australia persisted (following Freeman’s selection as cauldron lighter for the 2000 Olympics, 71 per cent of the 718 people who responded to a *Daily Telegraph* telephone poll did not approve of Freeman’s selection (Bruce and Wensing, 2009 p. 94). Freeman’s flag activism did help prompt a dramatic shift in Australia’s mainstream attitudes towards multiculturalism, and to a lesser extent reconciliation. The *Aboriginal Flag* henceforth had positive associations for white Australians as well as Aboriginal people. A good place to identify this shift is in Australia’s then best-selling newspaper, the Rupert Murdoch owned conservative tabloid, the *Sunday Telegraph*. In a few hundred words, Piers Akerman’s *Sunday Telegraph* opinion piece on Cathy Freeman’s Commonwealth victories touches on many hot-button aspects of race relations in Australia and makes for interesting reading as a document of racist attitudes of the time (Akerman, 1994). Many of

Akerman's arguments are what you would expect from a conservative columnist in that they were designed to further his and the *Sunday Telegraph's* Anglo-conservative agenda. 'Cathy's displaying of the *Aboriginal Flag* was not a challenging political gesture', he writes: 'She isn't ... crying out for more government assistance' (Akerman, 1994). Yet remarkably, Akerman makes a number of significant concessions towards racial tolerance, reconciliation and multiculturalism, all issues associated with left-wing political agendas. His concessions are thus highly significant, they reflect that rare thing, a major shift in public opinion, one that future events would confirm took place in the thinking of mainstream Australia. Akerman suggests as much when he writes: 'The simple act by dual gold medallist, a modest, unassuming young Australian woman has done more to assist Aboriginal people than generations of politicians have or will ever achieve' (Akerman, 1994). Interwoven with Akerman's many conservative statements are several *whole* sentences that celebrate the *Aboriginal Flag*, the spirit and ideas of reconciliation and multiculturalism. For example, Akerman's opening and closing paragraphs: 'Cathy Freeman has given all Australians the *Aboriginal Flag* to use as yet another symbol of their love for the nation and their ties to every element in this fantastic country....' And in conclusion:

In the future, young Australians who have cheered Cathy Freeman through this year's Commonwealth Games will not look upon the *Aboriginal Flag* as a symbol of divisions within our society, but as a mark of the many bridges which unite Australians.

(Akerman, 1994)

Clearly, Akerman and many Australians had arrived at that sweet spot, the crucible identified by Michel Foucault: 'As soon as one can no longer think things as one formerly thought them, transformation becomes both very urgent, very difficult, and quite possible' (Foucault, 1988 p. 155). It is remarkable what 'a warm and loving woman with determination [in a swimsuit]', to again quote Akerman, can achieve in 50.38 seconds.

At the Commonwealth games, Thomas's flag had a very powerful and effective champion in Cathy Freeman. The flag, as a concise sign of sovereign Aboriginal culture and identity, land rights and multiculturalism, held strong. The flag and the

core values it represents are unchanging. Freeman did not disarm a potentially potent symbol of division or defuse ‘the hardline separatists’ as Akerman claims in his article. Rather, her actions stated unequivocally, I am Aboriginal, I am proud, I have my own culture and rights; and I am a winner. As such, the *Aboriginal Flag*’s meanings broadened to represent racial acceptance and tolerance, strength of character, and strength of Aboriginal culture. In hindsight, it is hard to imagine a more effective vehicle (Freeman and the flag) and context (sport) for change in social attitudes relating to Aboriginal people in Australia. Sport has its own set of rules that are generally independent of the rule of law or constitutions. The values of sport – epitomised in the idea of a level playing field – are mirrored in the mythologised ethos of Australia social values: a fair go for all. Cathy Freeman does not have an Aboriginal name that emphasises her otherness or Aboriginality. Cathy is a common and friendly sounding Anglo-Saxon name: she could be any white Australian’s friendly neighbour. Freeman is the kind of surname a public relations company might come up with for a black athlete who is going to represent a nation with a bad reputation as a racist country in a global event. Its barely subliminal message is one every person on the planet can understand: this person – an Aboriginal – is a citizen with rights in law equal to any white person in Australia. *Freeman* is public relations gold.

Unlike other prominent male black sports people and activists like Aboriginal boxer Anthony Mundine, Australian rules football star Adam Goodes or the Black Power American athletics Tommie Smith and John Carlos, Freeman is not physically threatening, confrontational or intellectually intimidating to white people like Akerman. It is illustrative to compare and contrast the public statements Gary Foley made at a similar age as a young militant Black Power leader. In Gus de Brito’s article ‘Black Pride’ in the *Daily Mirror*, (See Chapter 2), a large photo of 21-year-old Foley defiantly engages the reader’s gaze (he looks truly ‘deadly’). A ‘Black Power’ fist emblem hangs around his neck, the subheading reads: ‘Gary Foley, Black Power leader, says he is ready to die for the Aboriginal cause’. The *Daily Mirror* was the Australian newspaper with the greatest circulation at the time. Unequivocally, the photo portrait and many of Foley’s quotes must have evoked deep-seated fears in the paper’s 600,000 white subscribers: l’esprit of Jimmy Governor, Aboriginal colonial terrorist, slaughter of woman and children, was staring them in the face. Thomas Kenneally’s book, *The Chant of Jimmie Blacksmith* was released the same year as de Brito’s article. In 1972,



Foley was already an outspoken articulate leader; the long article contains many insightful comments on land rights and the pressing need for better education and health services for Aboriginal people, all of which were no doubt eclipsed by Foley's 'white' rage. Quotes in the article of the following ilk which praised Indigenous leaders such as Paul Coe: 'He was the first black fella I had met who would get up in front of a white audience and tell them all to go to hell, that they were all racists' did little for Foley's Indigenous cause. Freeman by contrast, did something that is hard to do when the fires of indignation burn bright. She smiled, she stayed on message, she poured cooling words on white fears, and most importantly, she showed respect and generosity towards white supremacists by also flying the Australian flag: a very significant gesture of reconciliation.

As a beautiful, confident, young part-Aboriginal woman, Freeman embodied a complex duality in her actions and words: she was at once feminine and sensitive, brave and strong (a modern woman perhaps). This proved to be a disarming, effective and emotive combination, which enabled her to make others feel empathy for her Indigenous perspectives and views. When controversy first flared up around her dual flag action following her gold medal-winning performance in the 400-metre sprint final, she made no public comments. Rather, a few days later Freeman once again enacted the moral character and strength of her convictions by both winning Gold in the 200-metre woman's sprint final and again flying the Aboriginal and Australian flags (a feat she repeated at the Sydney Olympics). In her public statements in and around the Commonwealth games as a 21-year-old, Freeman demonstrated remarkable diplomacy, understanding and sensitivity for dominant Anglo-Celtic Australian values and fears. She did not emphasise Black Power, but rather basic human values, like self-esteem. She told Australians that her actions were not about politics, when clearly they were. She encouraged young Aboriginal people to make something of their lives. In the process she soothed, rather than inflamed the concerns of racists. At the same time, she was firm and strong in her Indigenous pride explaining, 'It's my heritage'. When asked why she carried both flags she replied 'Because I know when Aboriginal people look at the flag they feel good about themselves' (Masters, 1994). Across the events of the 1994 Commonwealth games, Freeman and Thomas's *Aboriginal Flag* were a deadly double act. Both Freeman and the flag acted as sign, medium and vehicle of change. Together, they brought about



dramatic social change in attitudes towards race relations in Australia. In 1998, the Howard Liberal government nominated Cathy Freeman as Australian of the year.

Flown, as it now is on most of Australia's public buildings adjacent to the Australian flag and the Torres Strait Islander flag, the *Aboriginal Flag* affirms for some Australians such as Henry Reynolds, that Australia is one country made up of three nations.<sup>26</sup> For many Indigenous leaders and activists, whose arithmetic is perhaps even more Indigenous, it signifies that Australia is one country made up of over 300 Aboriginal and Torres Strait Islander peoples (Figure 6.5).



Figure 6.5: David R. Horton. The AIATSIS map of Aboriginal Australia. © Aboriginal Studies Press, AIATSIS and Auslig/Sinclair, Knight, Merz. 1996.<sup>27</sup>

For Thomas, a very important part of the flag's meaning and *raison d'être* rests in the pride it has helped Aboriginal people feel about their culture and Indigenous identity. As previously quoted in the Chapter 5, Thomas recalls a time when 'a lot of people were ashamed of their Aboriginal identity'. For Thomas, the displaying of the

<sup>26</sup> Henry Reynolds's tag line to his book *Aboriginal sovereignty: reflections on race, state and nation* (1996) is 'Three Nations, One Australia'.

<sup>27</sup> This map attempts to represent the language, social or nation groups of Aboriginal Australia. It shows only the general locations of larger groupings of people, which may include clans, dialects or individual languages in a group. It has used published resources from 1988-1994 and is not intended to be exact, nor the boundaries fixed. It is not suitable for native title or other land claims.

flag is ‘a signal to other people in the community I’m proud I’m Aboriginal, I’m proud to wear the colours’ (Thomas, 2002). In its report, *Changing Propensity to Identify as Being of Aboriginal and Torres Strait Islander Origin between Censuses*, the Australian Bureau of Statistics (ABS) notes that 93,300 more people identified themselves as Aboriginal or Torres Strait Islander between the 2006 and 2011 Censuses (Statistics, 2013b). This increase was larger than could be fully accounted for by ‘improved coverage in the 2011 Census’, ‘fertility’ or ‘migration’. To better understand these demographic changes, the ABS conducted a series of focus groups with Indigenous Australians in 2012. Participants noted a range of factors including ‘pride and confidence in their identity’ and ‘the perception that identifying may lead to positive impacts for the individual and/or wider Aboriginal and Torres Strait Islander community’. These sentiments and demographic changes represent a revolution in the sentiments and actions of Indigenous Australians. We can conclude, in a somewhat more speculative and light-hearted manner, that Thomas’s creation has not resulted in more love-making and procreation among Indigenous people, but that the *Aboriginal Flag* does have many more proud ‘children’ than it did just a decade ago.

## Culturally Modified Trees and the *Aboriginal Flag*

This chapter appraises contemporary readings of the *Aboriginal Flag* in Wellington, a central western community of New South Wales. In that region, Culturally modified trees<sup>28</sup> and the *Aboriginal Flag* mark and claim Indigenous custodianship of land. Their comparison is revelatory of each entity's particular semiotic reading and it imparts insights into the premises and status of race relations. In the region, the contested nature of land ownership between Wiradjuri people and the dominant white land-owning pastoralists, colloquially known as 'cockies', continues to shape race relations.

### Wellington

In 1965, Aboriginal activist Charles Perkins lead a group of civil rights activists from Sydney on a road trip across western and northern New South Wales to investigate and challenge discrimination against Aboriginal people. Through his actions he made an explicit statement: if you want to bear witness to the state of race relations in Australia, go to where most Aboriginal people live in urban rural communities. To this day, of all the states and territories of Australia, New South Wales has Australia's largest Aboriginal population. The majority of those Aboriginal citizens live in urban/rural communities (just one-third of Australia's Indigenous peoples live in cities).<sup>29</sup> Wellington, a small town in central New South Wales, is broadly representative of the type of communities where many Aboriginal people live (Figure 7.1). The Local Government Area has 8,850 citizens of whom almost 20 per cent are Indigenous – a relatively high rate by Australian standards (Indigenous Australians make up just 2.5 per cent of Australia's population).<sup>30</sup> My grandfather Ernest Moulton (1905–1966), a British migrant, settled in Wellington in 1944. He purchased the local paper, the *Wellington Times*, and as editor became a prominent conservative voice in the community for the next 21 years. Between 2010 and 2012, as a self-initiated

<sup>28</sup> In the Wiradjuri and Gamilaroi regions, and across much of Australia, culturally modified trees are colloquially referred to as scar and carved trees.

<sup>29</sup> In 2011, just 53,776 people in the Northern Territory lived and identified as Aboriginal whereas 172,642 did in New South Wales. <http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>

<sup>30</sup> By comparison, Sydney's Aboriginal population represents 1.1 per cent of the total population.

community engagement / research project, I compiled *Wellington* (2012), a 50,000-word publication that features contributions by, and perspectives on, the local Aboriginal community. *Wellington* represents an intimate history of Wellington's race relations, the processes of colonisation and the community's tentative steps towards reconciliation (Gallois, 2012).



Figure 7.1: Matthieu Gallois. *Wellington*. 2012.

Wellington's Wiradjuri history, and the community's history of race relations has a significance that transcended its status as a generic mixed-race modern Australian community. Wellington is located at the junction of the Billabong and the Wambool rivers (since renamed the Bell and Macquarie rivers). The valley has rich dark soils, which have for millennia being replenished by the two rivers' periodic flooding. Pre-contact Wellington was a significant place and meeting ground for Wiradjuri people who have inhabited the area since the beginning of time. The valley was 'discovered' by explorer and surveyor, John Oxley in 1817. For the first 20-year period of its settlement, Wellington represented the furthest outreach of the British colony in New South Wales – it was literally the frontier of the colony. In its first years it took the form of a military outpost complete with minor fort. The early settlement soon had Australia's second mission and first Anglican mission for Aboriginal people. The latter was Australia's second-longest-running Aboriginal

mission. The Wellington Valley Mission Papers represent one of the largest and most important sources of colonial frontier history in New South Wales. Mission records from those times reveal that Wellington Valley Mission ‘procured’ or stole Wiradjuri children for re-education and separation from their families and cultural milieu; thus the tragic history of the Stolen Generations had one of its beginnings six generations, or close to 200 years ago, in Wellington valley. The first stop and intervention of the 1965 Freedom Ride was Wellington. In 1993 members of Wellington’s Aboriginal community lodged Australia’s first native title claim after Mabo.

One factor has dominated and shaped postcolonial relations in Wellington – the taking of the ancestral lands (Gallois and Macdonald, 2012 pp. 10-16). In the minds of the British, the process of taking the land from the Wiradjuri necessitated their total subjugation. To sign treaties, to preserve sacred sites, allow Wiradjuri language to exist, to set aside lands for the continuation of Wiradjuri cultural practices – all the things that might have made possible the co-prospering of Wiradjuri people post-1817, in the eyes of the British, would have compromised the coloniser’s desire for *all the land* (Wolfe, 2006 p. 388).

The Wiradjuri people, whose land covers a vast area of Australia (it is two-thirds the size of England), actively resisted colonisation through armed struggle. The Bathurst war erupted just as Wellington was being colonised. In the Bathurst region, the colonising population jumped from 114 in 1820 to more than 1200 in 1824. The amount of land taken by the invading Europeans jumped from 2520 acres in 1821 to a staggering 96,636 acres in 1825 (Ireland, 2005). The leader of the reprisals, Windradyne, brought together a significant number of men, estimated at the time to be approximately 600. His warriors fought for their land, their way of life, the security of their families and their right to travel and hunt. Or as put more starkly by anthropologist and ethnographer Patrick Wolfe in this article ‘Settler colonialism and the elimination of the native’, the Wiradjuri fought for their lives: ‘Land is life– or, at least, land is necessary for life. Thus contests for land can be–indeed, often are–contest for life’ (Wolfe, 2006 p. 387). In response Governor Brisbane declared martial law. The *Sydney Gazette* published a letter (most probably written by missionaries based in Wellington) which describes the ensuing conflict as an ‘exterminating war’ (Anonymous, 1824 p. 4). By 1890, Aboriginal Protection Board records stated that there were only 30 Aboriginal people remaining in the Bathurst region. It is highly probable that Wiradjuri men from Wellington participated in the

Bathurst conflicts. Wounded Wiradjuri warriors who fled the conflict sought refuge in the Wellington valley (Anonymous, 1824 p. 4) The implications of the military campaign in Bathurst for Wiradjuri in the Wellington Valley were stark: it illustrated that any resistance to colonisation would be met with violence, and possibly massacre.

In Wellington, the rupturing of the land-based premise of Wiradjuri cultural practice and belief, combined with other aggressive forms of subjugation such as war, poverty, rape, child theft, Christian evangelisation and assimilation had the effect of thoroughly demoralising and weakening Wiradjuri people (Gallois, 2012). As a result, it was only when population numbers had stabilised then recovered, and the cultures of colonisation and assimilation had been deconstructed and dismantled (in part) by actions such as the Freedom ride, did Wellington's Wiradjuri people find the strength and means of asserting their sovereignty and land rights once again. In the context of Wellington's history, the initial public display of the *Aboriginal Flag* expressed unfolding ruptures in colonial race relations. In itself, the flag represents a powerful symbolic gesture of decolonisation. Neither the *Aboriginal Flag's* arrival in Wellington, nor other significant events relating to its display in the community, have been recorded. In Wellington, some 40 years after it was first introduced, the *Aboriginal Flag* remains one of the few signs in the public domain that Wiradjuri people have a 50,000-year history and presence in the valley. The other is the caged culturally modified trees of the greater Wiradjuri and Gamilaroi regions.

### **Dendroglyphs**

Indigenous Services Librarians Ronald Briggs and Melissa Jackson of the State Library of New South Wales, describe in the institution's recent exhibition catalogue, *Carved Trees, Aboriginal cultures of NSW*, the practice of carving trees in the landscape:

The Wiradjuri people of central NSW carved complex designs into trees to mark the burial site of a celebrated man whose passing had a devastating effect on the community. Usually, only one tree was carved at each burial site, but as many as five have been recorded. The design always faces the grave, serving as a warning to passers-by of the spiritual significance of the area. The trees were usually located near riverbanks and flats where the excavation of soil was



easier. Shallow graves were dug and a high mound of earth and foliage was built up over the body, creating a bare, rounded strip of soil around the grave [Figure 7.2]. The carvings display great strength, skill and artistry. A large section of bark was first removed and the design cut into the sapwood and heartwood at varying depths. Traditionally, they were carved using stone tools. However, after colonisation, metal tools were preferred, allowing for noticeably more elaborate designs. Unfortunately, it is not known when the last tree was carved in the traditional way for burial. Each tree is unique but the majority of them are geometric in shape and feature chevrons, curvilinear lines, scrolls and concentric circles, quite distinct from the ‘dot’ styles used in central and western Australia.

(Briggs and Jackson, 2011 p. 2)



Figure 7.2: G.E. Evans. *Grave of a Wiradjuri man at Gobothery Hill, near Condobolin*. Published in the Journals of two expeditions into the interior of New South Wales, undertaken by order of the British government in the years 1817–18. 1817. London: John Murray Collection, State Library of NSW. Call no. DL Q82/74.

Culturally modified trees also featured in ‘Bora’ ceremonial grounds that

sometimes contained large groupings of carved trees, as described by colonial era explorer John Henderson in his book *Observations on the Colonies of N.S.W. & Van Diemen's Land*, 1832. Culturally modified trees are broadly categorized in Wiradjuri and Gamilaroi country, into two groups: scar trees and carved trees. Scar trees do not have the spiritual, cultural significance of carved trees. They represent markings left on trees that have been 'harvested' to extract bark canoes and coolamons, small dishes used for carrying things including grains, water and babies. All culturally modified trees, as tangible conduits to their cultural heritage, hold tremendous significance to contemporary Wiradjuri and Gamilaroi people (Figure 7.3).



Figure 7.3: Henry King. A carved Wiradjuri tree photographed near Dubbo, New South Wales. (191?). Collection, State Library of New South Wales. Call no. SPF/1153.

As documented in the Chapter 2, dendroglyphs, and other traditional cultural artefacts, like bark painting, rock art and sand sculptures; boomerangs, coolamons and spears with markings, are flag-like objects, i.e. 'standards', in Michael Anderson's words, signify cultural identification with and ownership of land (Anderson, 2014 p.



4). Anderson is a Euahlayi and Gamilaroi man from northern New South Wales, language groups with strong cultural ties with neighbouring Wiradjuri people. Wiradjuri, Euahlayi and Gamilaroi have a tradition of creating dendroglyphs. In his assertion, Anderson is drawing upon his knowledge of Euahlayi and Gamilaroi law as a senior initiated Indigenous man, and the knowledge he acquired through his degree in Western law, both of which give him considerable insight into the meaning and power of 'standards' in both legal systems. Anderson's argument is substantiated by anthropologist Howard Morphy's study of Yolngu cultural practice in north-east Arnhem Land. Due to their isolation in the rugged 'Top End' of Australia, the Yolngu only came into sustained contact with Europeans in the mid-1930s. As a result, much of their traditional culture was spared the ravages of long-term colonial contact. In Morphy's opinion, 'Yolngu theory about art represents an archetypal Aboriginal view of the world in which the forms of the present are viewed as a reproduction of the forms of the past' (Morphy, 1998 p. 18). Paintings are creations of the Wangarr ancestral beings and have been handed on in unchanged form to the present. The 'designs' of their art came about as ancestral action and they have been handed on to the social groups who occupied the land. They are the title deeds to the land, and rights in them are both shared and closely guarded.

An examination of the contested contemporary status of the culturally modified trees of the Wiradjuri and Gamilaroi regions reveals that non-Aboriginal people and land owning 'Cockies'<sup>31</sup> have a similar understanding to Anderson and Morphy of dendroglyphs, and other artefacts, as 'Title Deeds' to land. In the early nineteenth century, when Wiradjuri country was colonised, thousands of culturally modified trees dotted the Wiradjuri landscape. Many of these were recorded and documented by the Anthropological Society of New South Wales in the early nineteenth century (Briggs and Jackson, 2011 p. 2). Extensive land clearing, the decay of old trees, fire and vandalism have all contributed to there now being only a handful of culturally modified trees left in the landscape. Culturally modified trees are found in greater numbers. Across Wiradjuri and Gamilaroi country, most of the remaining culturally modified trees are located on private land owned by Cockies. South of Wellington, for example, on the Wambool River (Macquarie), a highly significant Bora ceremonial ground, which once contained close to 100 carved trees and earth mound sculptures

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<sup>31</sup> 'Cockies' is the name local Aboriginal people and non-Aboriginal people often use to describe the dominant non-Aboriginal land owning pastoralists, and sheep and cattle station owners of the region.

exists. It is described in detail in John Henderson's book *Observations on the Colonies of N.S.W. & Van Diemen's Land*, from 1832. The farmer who now owns the land denies access to this site to Aboriginal people. The few 'public' remaining culturally modified trees are more often than not found on Crown land and road easements managed by either local councils or the Roads Traffic Authority (RTA) of New South Wales. Wiradjuri people and Cockies with knowledge of the existence of culturally modified trees are secretive about their location for very different reasons. Aboriginal people in the region know from experience that if they publically celebrate their culture, or even share knowledge of it with non-Aboriginal people, often that culture or those sites will be desecrated. Cockies remain quiet about significant and sacred sites on their properties, for fear that these sites, if made public, will be used as the basis of land claims by Aboriginal people and groups.

The cultural practice of modifying trees is not unique to central New South Wales, but it does find its most sustained cultural expression in Wiradjuri and Gamilaroi country (Briggs and Jackson, 2011 p. 2). Since the mid-1980s, when a collection of carved trees was repatriated to country from Sydney and Melbourne's State Museums, and housed in a shed or cage-like structure, another even less well known cultural practice unique to the region emerged: placing culturally modified trees in cages (Figures 7.4, 7.5 and 7.6). Culturally modified trees that are placed in cages usually originate from 'public' sites, like road easements, where they have been spared the fate of most of the dendroglyphs of the central west. These rare Culturally modified trees are usually long dead, and stand like ghosts in the landscape for decades slowly rotting. Generally, through a process of consultation with senior Aboriginal community members or local Aboriginal Working parties, the trees have their limbs removed and are cut down, so they can be moved to a site near the tree's original location. This is done to make way for infrastructure works, like new or expanded roads and bridges. Sometimes, Aboriginal groups and individuals are paid as consultants as part of the process. Most of the cages represent cheap design and fabrication 'solutions' for 'protecting' the trees, and most of the trees are displayed without signage.



Figure 7.4: Matthieu Gallois. Caged tree in Geurie, South of Dubbo, New South Wales. 2014. Black and white photograph.



Figure 7.5: Matthieu Gallois. Caged tree on Newell Hwy, north of Dubbo, New South Wales. 2014. Black and white photograph.



Figure 7.6: Matthieu Gallois. Caged tree on Newell Hwy, north of Dubbo, New South Wales. 2014. Black and white photograph.

The practice of caging culturally modified trees in the central west represents a basic solution to a complicated set of issues. It is a cultural practice that did not emerge from a considered and researched process initiated by either an Indigenous group like the Dubbo Lands Council or a government department like New South Wales Heritage Division Office of Environment and Heritage. Rather, it is a cultural practice that has emerged without an ‘author’, and as such, it is a practice that is accountable to no person or institution. Off the record, Aboriginal and non-Aboriginal people question the authenticity of most of the eight scar trees that have been caged around Dubbo and Wellington (the authenticity of the culturally modified tree in Warren, and other carved trees placed in cages in other parts of the region is not questioned.) Indeed, once one starts to look carefully, there are many dead and living trees in the landscape that look like they have been culturally modified, most of which are too young to have been modified for traditional purposes by Aboriginal people prior to European contact. Christian Hampson from the New South Wales Heritage Division Office of Environment and Heritage recounts the story of the claiming of one roadside ‘culturally modified tree’ by Aboriginal people, only for the RTA to disprove the claim with photographic documentation of the tree as a collision site with a car some decades prior to the claim.

Once the tree is chopped down, ‘dismembered’ of its limbs, and removed from

the site, many Aboriginal people claim culturally modified trees lose their cultural meaning as site specific artefacts. In the case of carved trees, clearly, the removal of a tree negates its purpose as a signifier of either a gravesite or scarred ceremonial ground. For scar trees, the location of the tree would seem to be less bound to its original site. Nevertheless, Elders express considerable distress when these trees are relocated. The meaning of the caged trees, and what they tell us about contemporary race relations in the central west, does not reside in the practice of culturally modified trees, their cultural significance for Aboriginal people, nor the contested authenticity of some of the scar trees. Rather, their contemporary significance and meaning, resides in their caging; the need to protect objects that might be Wiradjuri and Gamilaroi cultural artefacts, and the ongoing violence and suppression of Wiradjuri and Gamilaroi culture in the central west.

A world away from the grand cultural institutions of Australia such as the National gallery of Australia, where Aboriginal art is revered, adjacent to a road 20 minutes north of Dubbo, a caged culturally modified tree was desecrated in 2014. The tree and cage were located 100 metres from the main road, hidden from view by thick bush. In what can only be described as a highly organised premeditated attack, at least two people came with a portable oxyacetylene torch and cut apart the metal structure protecting the scar tree. They stole some of the cage's materials and then set the tree on fire totally defacing the significant scar, reducing its massive volume by more than 50 per cent (Figure 7.7). In 2013, in Warren, 120 kilometres west of Dubbo, vandals used a pipe to pour diesel fuel through a cage's protective mesh to immolate a highly significant caged carved tree.

# Local Aboriginal site attacked by vandals

## DESECRATION

By PATRICK BEGLEY

A LOCAL Aboriginal site has been desecrated, the scarred tree at its centre burned, its shelter torn down.

Aboriginal Elder Coral Peckham said the attack was the latest in a long history of vandalism against Aboriginal sites in the region.

"This is Tubba-Gah country and we have an obligation to protect it on behalf of our ancestors," Ms Peckham, a descendant of the Tubba-Gah and Wiradjuri peoples, said.

"When it's not protected, the traditional people feel unwell."

The markings on a scarred tree show how ancestors used its wood for tools, while carved trees act as headstones or markers of ceremonial sites.

Ms Peckham said she had seen the trees lacerated by chainsaws, hammered with nails, covered in paint, and burned.

"You feel unwell and sad when you see these things happening over and over and over again," she said.

The recent desecration took place at a site close to the highway between Dubbo and Gilgandra, where the Aboriginal community had erected a wire and concrete shelter to protect the tree.

A Wiradjuri man who discovered the damage said the tree was "completely destroyed" by fire and the shelter ruined.

Harming or desecrating an Aboriginal object or site carries a maximum penalty of two years' jail under the NSW National Parks and Wildlife Act.

Ms Peckham said after the Aboriginal community worked in the 1990s to erect



**A scarred tree significant to local Aboriginal people has been burned and its shelter destroyed.**

Photo: CONTRIBUTED

signs around the special sites, many of these were then deliberately damaged.

Signs welcoming people to Tubba-Gah and Wiradjuri country on the way to Wellington and Narromine, she said, had been shot through with bullets to the point of illegibility.

Ms Peckham said while Tubba-Gah and Wiradjuri country included hand stencils on rock walls and other significant pieces of Indigenous heritage, the elders would not disclose their whereabouts.

"We don't want to do anything with that information because we're too scared that someone will come up behind us and desecrate them."

Dubbo City Council's parks and landcare director, Murray Wood, said: "Any desecration of Aboriginal sites is disturbing and needs to be appropriately dealt with through the respective land holders and managers".

Mr Wood said the two Aboriginal sites council helped to manage at Wiradjuri Park and Terramungamine Reserve had not seen significant vandalism.

Figure 7.7: *Daily Liberal* (Dubbo, New South Wales.) Local Aboriginal site attacked by vandals. March 23, 2014.

Attacks on Wiradjuri and Gamilaroi culture in the central west of New South Wales are not organised in a systematic way; they are random events. Their frequency nevertheless speaks of a persistent cultural practice among non-Aboriginal people that spans vast distances in space and time. Violence perpetrated against Aboriginal people in the form of desecration of Aboriginal sites is an Australia-wide phenomenon (Birch, 1996 pp. 70, 71). Two short publications printed a decade apart by National Parks and Wildlife Service of New South Wales (intended for general public readership), *Aboriginal Relics in New South Wales* (1978), and second



*Aboriginal Sites of New South Wales* (1988) are testament to this ‘culture’. The first states on page five:

Aboriginal relics, particularly obvious and interesting ones, such as art sites, have always been subject to misuse by visitors (see fig. 5) (which shows a defaced art site, Minto Area). Recently, however, many more sites are being visited by the general public, with often the unfortunate result of increased vandalism.

(Sullivan, 1978 p. 9)

The latter (published during Australia’s bicentenary, a year of intense national and international media attention regarding Indigenous affairs), does not mention the desecration of Indigenous sites directly. The final page simply shows Carol Gartside, Senior Aboriginal Sites Officer, removing graffiti from a rock shelter containing Aboriginal art (Jones, 1988 p. 35).

As witnessed in the landscape, the culturally modified trees placed in cages communicate a confusing and contradictory semiotic discourse. The structures in which they are housed are commonly described as ‘cages’, but they are also shelters. The cage/shelters are supposedly designed to protect the trees from the elements and vandals, but this is done in a brutal way that severs and alienates the tree from its Aboriginal cultural connection to the land and makes the trees more visible in the landscape, and therefore more likely to be vandalised. Millions of dollars might be spent on a new bridge or road expansion, yet only a few thousand dollars is generally spent relocating a tree. Very few trees have interpretive signage, which explains their meaning and significance. Removed from their sites, dismembered, placed in cages, at times horizontally, as one would a corpse, and usually displayed without signage, the act of caging the trees is violent in itself. The culturally modified trees Wiradjuri and Gamilaroi trees of the central west are first and foremost public signifiers of the ongoing violence perpetuated against Aboriginal people and their culture, and their ongoing subjugation as colonial subjects. In 2015, as part of a video documentary about the caging and desecration of Wiradjuri and Gamilaroi trees, I interviewed a number of local Wiradjuri and Gamilaroi people. The following is a selection of excerpts from interviews conducted with Mal Burns, Peter Peckham and River Bank Frank:



MG: Mal, why do you think people removed the cage and set fire to this scar tree?

Mal Burns: I think it is because they believe that this land belongs to them, for their recreational purposes, for anything they wish do out here, including the vandalism. But I can't help but feeling there is some form of racism behind it, that it is a direct attack on Aboriginal people and their culture. That it is a mind set that has been around for so many years that it is still there among some people.

MG: Some people say that when Aboriginal people started to assert their land rights in the 1970s, that there were more attacks, more vandalism, more desecration.

MB: Yes. That is true. In a lot of cases, sites were kept secret, sites that were gonna be found, or were in danger of being found, were kept secret away from people's eyes and ears.

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MG: Some Aboriginal people describe the cages as being like prisons.

Peter Peckham: Yeah, that's right, a lot of them do. Particularly a lot of Elders don't like to see cultural stuff locked up, so it's a good analogy, it is like putting our culture in prisons.

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MG: Is it too simplistic to draw an analogy between the trees that have been placed in cages and the very high rates of incarceration in the Indigenous community?

River Bank Frank: Well (long pause), I didn't really want to go there, but, I reckon, nine out of ten Black Fellas, if I asked them for a comment about the

[cage] tree [adjacent to the interviewee], they would tell [me] it was in jail. At the risk of being politically incorrect, blind Freddie could see that.<sup>32</sup>

In the landscape and in and around Wellington in the public domain, as documented, a few remaining culturally modified trees (some in cages, some not) and many *Aboriginal Flags* mark and claim Indigenous custodianship of land. The reception, status and meaning, as understood by the community, of the trees and flags, however, is quite different. In the present day, the *Aboriginal Flag* appears, for all intents and purposes to be accepted by the whole community. It is flown permanently in front of the Council chambers, as it is flown above the buildings of Indigenous institutions or organisations such as the Aboriginal Lands Council and Aboriginal Health Services. In the minds of those who desecrate the culturally modified trees, the flag appears not to be a sufficiently powerful symbol to warrant attention. Threatened land owners and racists perhaps simply see something analogous to a work of art that has no greater significance than the tens of thousands of Aboriginal works of art that hang as passive representations of Aboriginal culture in Australia's private and public art collections. The flag, like Aboriginal art in Australia's art collections, poses no threat to land owners. In this regard, Cockies appear to understand the significance of traditional Aboriginal culture better than some Indigenous people. The culturally modified trees constitute evidence of pre-contact Wiradjuri land ownership. By comparison, the flag is a symbolic ensign that has no legal standing in Australian law. The flag cannot be used to assert land title, in the ways that Anderson encourages Aboriginal people to use their traditional culture.

Comparing and contrasting culturally modified trees reveals both the limitations of the *Aboriginal Flag* and its ongoing significance. The *Aboriginal Flag* has been, and has the potential to once again be, a powerful symbolic gesture of decolonisation (a Wiradjuri person needs only to raise the *Aboriginal Flag* above one of the regions multi-million dollar stations to reactivate some of the ensign's initial symbolic power). Within the community, day-to-day, the *Aboriginal Flag* reminds the entire community that the region's first peoples are Wiradjuri, that all the land once belonged to them and that they have pride in their heritage and culture. These are

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<sup>32</sup> Upon request to the author, this video footage can be made available to third persons.

important messages and meanings that the flag signifies, even if they hold no legal authority. Without the *Aboriginal Flag*, it would be easier for racists to denigrate Aboriginal people and propagate myths such as their invisibility. For the most part, however, the *Aboriginal Flag's* meanings in the second decade of the twenty-first century, serves both Aboriginal and non-Aboriginal agendas in Wellington. It is flown alongside the Australian flag, as noted, in front of the local council Chambers, and also a few kilometres away above the entrance to Wellington's new Correctional Centre where the modern-day Wiradjuri warriors of the region are in prison, subjugated. The total number of prisoners at Wellington Correctional Centre on 3 August 2012 was 458, of which 243 were Aboriginal (53 per cent) (Figure 7.8). In my publication *Country, Spirit and Belonging. The Wiradjuri in Wellington Valley*, where the above figures are quoted, an incarcerated Aboriginal man identified simply as Tony contributes a summary of his life and philosophy in the section titled *My Prison Home*:

In and out, in and out. To be honest, I couldn't even tell you how many times I have been behind bars. I can tell you this though, I don't desire much on the outside anymore. I miss my three children but not much else. I always thought this place would never break me as my spirit is strong, but instead, I broke the system – now it is my life.

Yeah, so overall, that is it. I'm neither black or white as I basically don't know much about my culture. Only when you look death straight in the face you can appreciate peace. This place knows no peace. It's never had it and never will. How can it when you take everything caring to a human from them for lengthy periods of time and then their hearts get broken? What do you expect, an angel going to walk out these gates? I bet you can't find one black man that feels proud of who he is in here.

In traditional society children and old people were the most important members of the community. The old people for what they had learnt through their life, and the children because they would carry on the law, the religion, the beliefs and the culture. Under traditional law, the highest disrespect was brought upon a community if a child was hurt. As such, children knew that their traditional law would protect them.

We have next to no culture in our traditional ways in here. We are fed, clothed

and housed then put in the yards ... If you tell me this rehabilitates man, then you are worse off than me as at least I have my eyes open. If prison was the answer, then why are they building more if this place rehabilitates a person?

(Tony, 2012 p. 54)



Figure 7.8: Matthieu Gallois. The Wellington Correctional Centre. 2012. Black and white photograph.

In the same publication Larissa Behrendt and Amanda Porter, of the Jumbunna Indigenous House of Learning (University of Technology Sydney) argue that ‘the problem of Indigenous over-representation cannot be understood divorced from the context of Australia’s colonial history’ (Behrendt and Porter, 2012 p. 53). The flying of the *Aboriginal Flag* in front of Wellington’s Correctional Centre has meanings contextualised within Wellington’s colonisation, that has symbolic parallels to the caging of the culturally modified trees. Both symbolise state violence against Aboriginal people (the state pays for both the prisons and the tree cages), both symbolise the continued subjugation of Aboriginal people in modern Australia society. In 2013, Indigenous Australians comprised 2.5 per cent of the total Australian population, yet accounted for 27 per cent of the total prison population of Australia (Statistics, 2013a).

On 18 August 1817, John Oxley’s surveying party sighted a ‘fine and spacious valley.’ The following day they travelled down Molle’s Rivulet, into the lush valley of the Bell River, which Oxley named the Wellington Valley. That day, Oxley wrote

in his diary:

Imagination cannot fancy anything more beautifully picturesque than the scene which burst upon us. The breadth of the valley to the base of the opposite gently rising hills was between three and four miles, studded with fine trees, upon a soil which for richness can nowhere be excelled ... In the centre of this charming valley ran a strong and beautiful stream, its bright transparent waters dashing over a gravelly bottom, intermingled with large stones, forming at short intervals considerable pools, in which the rays of the sun were reflected with a brilliancy equal to that of the most polished mirror.<sup>33</sup>

Indeed, the Wellington valley is beautiful, prime farming land. Before John Oxley were vast tracks of land valued at five shillings per acre, which would soon be the basis for the creation of vast fortunes for the region's first European settlers.<sup>34</sup> That prosperity, based on land ownership, for the Cockies of the region continues to this day. For all the many positive changes that have taken place in Wellington's race relations, the taking and keeping of the land is still the most determinate characteristic and force of the region's race relations. The manifestations of this premise are subtler, and less formalised than in the initial brutal period of colonisation: they are generally unspoken and even sometimes unconscious. Nevertheless, race relations are predicated in land ownership. In 2014 the new publication *Central West Lifestyle* ran a 36-page special feature on Wellington that celebrated the prosperity of the local white community, the Cockies of the region. Not a single Aboriginal person features in the article; the only mention of the local Aboriginal people, who make up 20 per cent of the population, is in the article's opening sentence 'The area was originally occupied by the Wiradjuri people' (Figure 7.9). The subtle use of the past tense reveals much about the article's author, and the magazine editor's views relating to Wiradjuri people.

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<sup>33</sup> Quoted in: James Jervis. *The Second Vale of Tempe 1818–1953* (1953), p. 6. Commissioned by the Wellington Historical Society and published by the *Wellington Times*.

<sup>34</sup> Joseph Montefiore (1803–1893) was a Sydney-based Jewish merchant who was one of the first major real estate investors in the Wellington valley. He purchased a number of properties, which became iconic in the region, such as Montefiores, Nanima and Gobolion Stations. In 1854 Montefiore moved to South Australia and sold Nanima to Joseph Aarons (1821–1904) for the huge sum of £7125 (AUD \$7,500,000, in 2012, based on average earnings). By then, Nanima had 16,000 acres (6475 ha) and was running 14,000 sheep.



Figure 7.9: *Central West Lifestyle*. Summer 2013.

In the minds of the non-Aboriginal land owners the process of keeping the ancestral lands continues to necessitate the subjugation of Aboriginal people – which the cage trees symbolise. The great majority of the land, and all the land of any economic value, continues to belong to the region’s Cockies. This is an argument that is in part supported by Indigenous scholar Larissa Behrendt when she writes: ‘The British legal system devalued Aboriginal laws, governance and culture and was based around the sole aim of empowering and enriching (in monetary terms) the British.’ The actual and symbolic violence that the cage trees represent serves this very specific purpose. As do the disproportionately high rates of Indigenous incarceration, the absence of a treaty and constitutional representation in the Australian constitution. The Wiradjuri remain a colonised people. In 2016, Aboriginal people constituted 20 per cent of the region’s population but owned less than 1 per cent of the land (Gallois, 2012 p. 27).

### **Who owns the *Aboriginal Flag*?**

Matthieu Gallois: What, if anything, do white fellas not understand about the *Aboriginal Flag*'s significance for Aboriginal people in 2014?

Michael Anderson: Quite honestly, I think a lot of white people now understand the flag. I think back then a lot of people were confused about what it represented, what it was all about. My disappointment now is the fact that it's now a registered flag according to Australian law. We don't own it anymore ... It's a[n official] flag of Australia, it's not ours, so it's not a liberation flag anymore.

M. G: Do you think that it's lost some of its meaning and power?

M. A: From a revolutionary point of view, yes. However, one thing that the Australians have done in making this flag part of national psyche, what it's done is it's now showing to the world that the Australian government now recognises joint sovereignty over a nation.

M. G: Pretty significant.

M. A: Absolutely. And people do not understand the power of that. Unfortunately, we have to tell our people what the significance of that representation is. Our people haven't exercised that yet because they don't understand it. Just like we didn't understand the significance of our artwork.

(Anderson, 2014 pp. 8-9)

In 1995, the Governor-General of Australia, His Excellency the Hon. Bill Hayden AC, as the British Queen's representative head of the Australian state, under instructions from the Keating Labor government, proclaimed the Australian *Aboriginal Flag* an official flag of Australia. In effect, the Australian government commandeered ownership of the *Aboriginal Flag*'s meanings to serve its own agendas. In response, Harold Thomas launched a successful legal campaign to assert his copyright ownership over the flag in the Australian Federal Court. Across the *Aboriginal Flag*'s history and narrative arc, the related events of proclamation and



copyright registration mark a decisive, and divisive, crossroads. Before these events in 1995 and 1997 the *Aboriginal Flag*, in spirit and practice, was the ‘property’ of Aboriginal Australians. Copyright registration formalised Harold Thomas’s ownership of the *Aboriginal Flag*. Proclamation resulted in the Australian government exercising considerable control over its use and meanings. These significant changes are not generally understood by the general Australian population, nor, more significantly, by Australia’s Aboriginal communities.

A few years after these events, in 2000, over a billion people witnessed Cathy Freeman and the *Aboriginal Flag* repeat their 1994 star double act at the Sydney Olympic games, but with a seismic twist – the flag flew on flag poles across the Olympic stadium and city as an Australian flag. The flag that once symbolised all causes Aboriginal – black pride, land rights, black unity and calls of sovereignty – became the flag of multiculturalism, the flag of reconciliation (most notably at the Olympics), the flag of copyright ownership disputes and the flag of state appropriation and symbolic colonisation. The fundamental question of the flag’s ownership is explored in this concluding chapter. But, in the twenty-first century, who now owns the *Aboriginal Flag*: the Federal government, Harold Thomas or Indigenous Australians?

### **The making of an official flag of Australia**

One of the great ironies of modern Australian race relations is that the *Aboriginal Flag* was made an official flag of Australia in 1995 by the Queen of England’s representative, then Governor-General of Australia, Bill Hayden. This decision reflects the complexities of Australian law and governance as they presently span three entities: the British crown, the Australian Federal government and Indigenous peoples of Australia. In this instance, the Governor-General was acting upon the instructions of the Keating Labor government, who in turn was acting on the advice of a government-appointed advisory panel made up of eminent Australians, both Indigenous and non-Indigenous. The Council for Aboriginal Reconciliation had been created via act of parliament initiated by the then Hawke Labor government in 1991. Chaired by Pat Dobson, the Council presented *Going Forward: Social Justice for the First Australians* to Prime Minister Keating in 1995. This document contained 78 recommendations covering a range of issues, including access to land, protection of

culture and heritage, and the provision of adequate health, housing and other services. Recommendation 66 stated: ‘The Council recommends that the Flag Act, 1953, be amended to give official recognition to the Aboriginal Flag and to the Torres Strait Islander flag.’ The Aboriginal and Torres Strait Islander Commission (ATSIC) (1990–2005) in their Social Justice compensation proposal made similar recommendations to the Federal government (Attwood, 1999 p. 344).

Thirteen years before these events, Thomas sought to assert his ownership of the *Aboriginal Flag* and earn substantial royalty fees for its use. He did so in correspondence with Aboriginal organisations, such as Aboriginal Hostels, that had incorporated his design into their logos. Figure 8.1 relates to one such set of correspondence (Strookowsky, 1985). In the letter M.J. Strookowsky, Director Commonwealth State Relations Section, Department of Aboriginal Affairs asks Mr I. Harvey, Senior Assistant Secretary of the International Trade Law and Intellectual Property Branch of the Attorney-General’s Department to give advice on Mr Thomas’s claims. Accompanying documents reveal that Thomas had demanded \$10,000 from Aboriginal Hostels (a not-for-profit, government-owned company that provides temporary housing for Aboriginal people) and \$20,000 from the Aboriginal Development commission (a not-for-profit, government-owned organisation that seeks to further the economic development of Aboriginal people). At the time both these organisations refused to pay royalty fees to Thomas, but he chose not to assert his rights through the copyright tribunal. Either in the 1980s, in response to Thomas’s initial claims, or in 1995, Charles Perkins met with Thomas and advised him that he needed to prove his copyright of the *Aboriginal Flag* to the government using the ‘white man’s legal system’ before he could make royalty claims (Thomas, 2009 p. 40). Thomas did establish a licensing agreement and fee for the reproduction of the *Aboriginal Flag* with the flag-manufacturing company, Flagworld, in the mid-1980s, before the flag’s copyright registration.

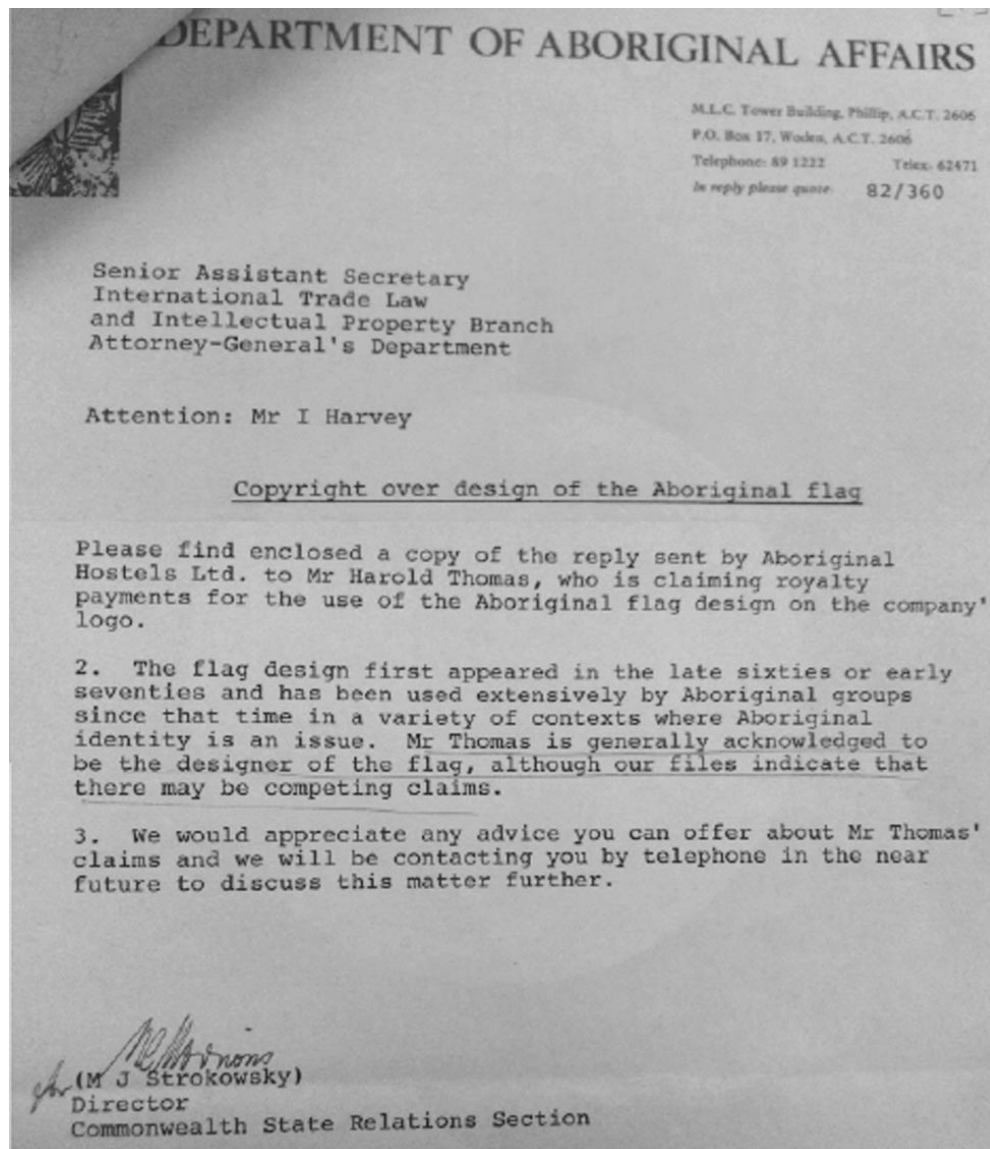


Figure 8.1: Letter from J. Strokovsky, Director Commonwealth State Relations Section, Department of Aboriginal Affairs, to Mr I. Harvey, Senior Assistant Secretary, International Trade Law and Intellectual Property Branch, Attorney-General's Department, 1985.

The decision to make the *Aboriginal Flag* an official flag of Australia was taken without a democratic mandate from either the general population or Aboriginal Australians. It is a decision that divides opinion across the Australian community to this day. In 1995, the Tasmanian Aboriginal activist Michael Mansell stated that recognition of the *Aboriginal Flag* 'was a poorly timed gesture that could give a false impression that blacks had achieved equality'. In his opinion, 'The flags should be recognised at some stage but that can only happen when the struggle is over ... It takes away the ownership of the aboriginal struggle from the people themselves'(AP, 1995). In 2016, far right political leader Pauline Hanson complained, 'We as

Australians have never been asked in a referendum whether we endorse or recognise the Aboriginal Flag' (Davies, 2016). Thomas himself was not consulted about the decision. At the time of the proclamation Thomas was quoted in *The Australian* as describing the use of the *Aboriginal Flag* by the Australian government as 'objectionable' (Towers, 1996a). Some 20 years after the proclamation, Thomas still did not have a firm understanding as to why the Labor government decided to make the *Aboriginal Flag* an official flag of Australia.<sup>35</sup>

It is worth citing the Governor-General's proclamation under the *Flags Act 1953* in full because of its brevity:

*I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and noting the fact that the flag reproduced in Schedule 1 and described in Schedule 2 is recognised as the flag of the Aboriginal peoples of Australia and a flag of significance to the Australian nation generally, appoint that flag, under section 5 of the Flags Act 1953, to be the flag of the Aboriginal peoples of Australia and to be known as the Australian Aboriginal Flag with effect from 1 January 2008.*<sup>36</sup>

The proclamation reveals very little about the motivations for making the *Aboriginal Flag* an official flag of Australia. It simply 'not[es] the fact' that the *Aboriginal Flag* 'is recognised as the flag of the Aboriginal peoples of Australia and [that it is] a flag of significance to the Australian nation generally'. At the time of the proclamation, then opposition leader, John Howard, was reported in *The Canberra Times* as stating that the decision was 'inappropriate and divisive' (Cole-Adams, 1995). Prime Minister Keating retaliated with a press release in which he described Howard's position as 'mean spirited'. Keating's press release also briefly outlines two reasons for the government's decision: 'Recognition of the flags is an inclusive act' and 'This change means that, for example, it will no longer be a breach of protocol for a young athlete like Cathy Freeman to carry the *Aboriginal Flag* with pride' (Keating,

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<sup>35</sup> In an informal unrecorded conversation, Thomas asked me: 'Why do you think they made the *Aboriginal Flag* an official flag of Australia?'

<sup>36</sup> Owing to an administrative issue, the 1995 proclamation expired on 1 January 2008. It was replaced, on 25 January 2008, with effect as from 1 January. The revised proclamation lists the current Governor-General.

1995). Keating's press release suggests that the decision to proclaim the *Aboriginal Flag* was driven by a narrow set of considerations.

Nation flags have important legal and symbolic roles in national and international law. They have been used for millennia to symbolise claims of land and sovereignty over peoples. Captain Arthur Phillip claimed Australia as a British territory by raising the Union Jack on Aboriginal soil in 1788 (Figure 8.2). When asked if 'the symbolic premise of the *Aboriginal Flag* design repudiates British crown sovereignty and the doctrine of terra nullius?', Michael Anderson responded:

In a nutshell, yes. Absolutely. And these fools fly it now as a flag of Australia and our people still don't know how to take a political advantage of that because they don't understand its symbolism and the power of it ... We need to teach the people more about understanding what sovereignty is and what the flag means and what standards mean and how important those things are in the Western world and how they are viewed in the legal world, in that Western world. When our people realise that, Australia has got something to be worried about.

(Anderson, 2014 pp. 15-16)



Figure 8.2: Algernon Talmage. *The Founding of Australia*. By Capt. Arthur Phillip R.N. Sydney Cove, Jan. 26th 1788. 1937. Oil Painting; 77 x 106.5 cm. Mitchell Collection, State Library of New South Wales. Call no. ML 122.

In his statement, Anderson is drawing upon his knowledge of Euahlayi and Gamilaroi law as a senior initiated Indigenous man, and the knowledge he acquired through his degree in Western law, both of which give him considerable insight into the meaning and power of ‘standards’ in both legal systems. Anderson asserts that Indigenous designs and art are ‘Certificate[s] of Title’ that affirm law and connection to land – they have some of the same function as flags in Western culture (Anderson, 2014 p. 1). The *Aboriginal Flag*, as established in Chapters 1 and 2, has root in both Indigenous culture and Western flag insignia. In both these cultural contexts, the flag asserts, in a general sense, Indigenous sovereignty. The Governor-General’s proclamation, however, is short and precise, and very narrow in its scope of meaning. It ‘recognises’ that the Aboriginal Flag is the flag of the ‘Aboriginal peoples of Australia’, and that it possesses ‘significance to the Australian nation generally’. Nothing more, nothing less. The proclamation, very deliberately in Australian law, does not imbue the *Aboriginal Flag* with any powers, let alone powers or significance like those of the Australian flag, to symbolise the claim of Indigenous sovereignty over Australia for Indigenous peoples. There are no clear public statements beyond

Anderson's claim, as to what the *Aboriginal Flag* means and claims for Indigenous Australians. Anderson acknowledges that in Indigenous communities, the use of 'standards', designs and art, as 'Certificate[s] of Title' is poorly understood. At best, we can suggest that, in relation to sovereignty, the *Aboriginal Flag* symbolises in general what Larissa Behrendt surmises that the word means for Aboriginal people, namely:

concepts such as representative government and democracy, the recognition of cultural distinctiveness and notions of the freedom of the individual that are embodied in liberalism. These claims take place by seeking a new relationship with the Australian state with increased self-government and autonomy, though not the creation of a new country.

(Behrendt, 2003 p. 54)

In the absence of clear statements from the Indigenous community, the flag's meanings are easily appropriated. In 2015 the Victorian government decided to permanently fly the *Aboriginal Flag* above the state parliament. Victorian Labor Premier Daniel Andrews's press release stated:

Aboriginal people are the traditional owners of this country. It's only right that we acknowledge their continued connection as the custodians of this land ... Flying of the flag is a clear statement of Aboriginal culture and identity. The oldest living culture in the world continues as ever – strong, resilient and proud.<sup>37</sup>

(Premier, 2015)

Keating's and Andrews's statements suggest that making the *Aboriginal Flag* an official flag of Australia and flying it on some public buildings, has no significance in Australian law. It is, at best, a symbolic act of inclusion and a gesture of reconciliation. Email correspondence with Megan Rocke, Customer Service Officer of the Victorian parliament, confirms this. In response to my queries, she stated: 'As

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<sup>37</sup> Andrews's press release incorrectly states that the *Aboriginal Flag* was created in 1972.

far as I'm aware, the flying of the flag at Parliament House carries no legal or constitutional implications' (Rocke, 2016 see Appendix).

### **Copyright registration of the *Aboriginal Flag***

The year following Governor-General Bill Hayden's 1995 proclamation, Thomas filed an application to the Copyright Tribunal to assert his copyright ownership of the *Aboriginal Flag*. He alleged that the Commonwealth had 'authorised or permitted copies of the artistic work to be made for its own purposes as well as by others generally, particularly non-Aboriginal people' (Sheppard, 1997). The case was soon transferred to the Federal Court because the Copyright Tribunal's legal jurisdiction gave it powers to fix terms of remuneration for the reproduction of works such as the *Aboriginal Flag*, but not to determine copyright ownership. As part of standard court proceedings, notices were published in *The Weekend Australian*, *The Northern Territory News*, *The Adelaide Advertiser* and *The Koori Mail* advertising the case and encouraging claimants to come forward. Letters were also sent to David Brown and to Gary Foley who were known by the Commonwealth at the time to have claimed authorship or part-authorship of the *Aboriginal Flag* (Sheppard, 1997). Two individuals came forward to make a counter-claim for copyright ownership of the flag: David Brown, an Aboriginal man, and a former non-Aboriginal art student of Thomas's, James Tennant. The latter's claim was soon dismissed by Judge Sheppard as 'entirely improbable' (Sheppard, 1997). Brown was born in 1950 and was 46 years of age at the time of the hearing (he is three years younger than Thomas). In court, he appeared to be much older and to be in ill health, in part, it is implied in the court report, as a result of a lifetime's heavy consumption of alcohol. The habit was so severe that it had dramatically impaired his memory and left him for periods of his life confined to a wheelchair. Judge Sheppard's court report states: 'He presented a pathetic picture. He is extremely thin and drawn' (Sheppard, 1997). Brown had spent periods of his life in juvenile detention centres and prisons, and by 1996 he was a divorcee and the father of three children. There seemed to be little to substantiate Brown's claims until late in the proceedings, when an old non-Aboriginal friend of his, Andrew Rennie, with whom he had spent time together in a boys' reformatory, wrote to the Copyright Tribunal claiming that while at McNally's Training Centre in 1967, Brown had shown Rennie a line drawing of the *Aboriginal Flag* he had done.



Under cross-examination, however, it emerged that Rennie's claim sprang from a deep sense of friendship and loyalty to an old friend rather than possessing any factual basis. The inconsistencies in Rennie's evidence led to Brown's case also being dismissed by Justice Sheppard.

Thomas's claim was corroborated by the testimonials given by three people – his 1971 colleague at the South Australian Museum, exhibitions officer Sandra Lee Hanson; Gary Foley; and Harold's wife, Shirley Thomas. Hanson confirmed in Court that she sewed the first *Aboriginal Flag* at Thomas's request shortly before it was first displayed in public at the National Aborigines Day Observance Committee (NADOC) march in July 1971. Hanson presented to the court offcuts from the rolls of fabrics she claimed to have used to create the original Aboriginal Flag. Hanson's production of these offcuts was the nearest the case came to identifying compelling hard evidence that Thomas was indeed the flag's creator, but even that was hardly irrefutable given that it would have been relatively easy to replicate such offcuts. Nevertheless, on 9 April 1997, based on the weight of circumstantial evidence, the court declared Thomas to be the author of the artistic work, namely the design known as the *Aboriginal Flag*, and declared that he was also the owner of the copyright subsisting in that work. The Federal Court decision enabled Thomas to make a new application to the Copyright Tribunal to 'determine the remuneration payable by the Federal Government in respect of its use of the flag' (Sheppard, 1997).

The *Harold Joseph Thomas v David George Brown & James Morrison Valley Tennant* hearing received national media attention, and as a result the case and its claimants represent a significant part of the *Aboriginal Flag*'s mythology in the fragmented memory and imagination of the Australian community (Dean, 1997, Towers, 1996b). The case reinforced negative stereotypes on both sides of the black/white divide. Rennie's claims that Brown, rather than Thomas, was the designer of the flag were reported as a sensational development, and contributed to the belief that has currency to this day that an alcoholic Aboriginal man designed the *Aboriginal Flag* (Dean, 1997). This myth plays into the tragically familiar archetype of a dispossessed, drunk, and frequently incarcerated, Aboriginal man who is visible on the streets of Australian towns and cities. Until I undertook research into the origins of the *Aboriginal Flag*, I believed that such a man had designed the *Aboriginal Flag*. Conversely, James Tennant's claim that he designed the flag reinforced the notion that white people seek to steal anything of value from Aboriginal Australians.

Thomas's decision to copyright, register and profit from the *Aboriginal Flag* remains controversial for some Aboriginal people. This was borne out in a panel discussion convened to inform this study on Koori Radio's national morning program, Blackchat, in 2017. The discussion was led by radio presenter Lola Forester, and the panellists were Nicole Watson, a lecturer in law at Sydney University; Maurice Ryan, an activist and grandson of Vincent Lingiari; and curator Djon Mundine. The panellists were chosen as broadly representative of Australia's Indigenous community, and as experts in their professional fields. Their expertise placed them in an informed position to discuss the *Aboriginal Flag's* registration as an official flag of Australia, its copyright registration, ownership and royalties. The panellists had been forwarded a draft copy of this thesis chapter prior to the live discussion.

The panellists put forward a range of views. Ryan, the oldest of the panellists, is Thomas's contemporary. Whereas he is Gurindji, Thomas is Luritija /Wombai; both language groups come from the desert regions of the Northern Territory. Ryan started the discussion by congratulating Thomas for designing the flag. He went on to say that the flag gives 'pride to a lot of people of Aboriginal descent' and that he was proud 'to watch it ... when it's flown in Parliament House and everywhere'. He also said the 'Australian Government is illegal and fraudulent under our political laws of 60,000 years', and concluded that Thomas 'designed it, [so] why not take the credit and also royalties?' (Watson et al., 2017a pp. 7-8).

Watson expressed mixed feelings about the flag's contemporary status:

I am torn. I want to congratulate Mr Thomas for this incredible flag that he designed and the contributions that he has made. As any artist I think that he is entitled to make some remuneration for his work, but since he produced the flag for me it's difficult to isolate that piece of art from the activism that has gone with it. Generations of our people have marched with that flag, and for that reason I think that I have concerns that only one person gets to control its use. I think that all of us should have some say in how that flag is used, particularly when it is used by governments.

(Watson et al., 2017a p. 5)

Later in the panel discussion Watson returned to the issue of the Australian government's use of the *Aboriginal Flag*:

I have problems with parliaments flying our flag, and I think that they're largely empty gestures; they look like they're doing something for us when in fact they're not. I would feel far more comfortable if our flags were not flown by Australian parliaments until we have some treaty in place that recognises our right to self-determination.

(Watson et al., 2017a p. 7)

In Mundine's opinion it is a 'move forward' that the flag 'enters the game' as an official Australian flag (Watson et al., 2017a p. 9). However, he also stated, that while he was sympathetic to the opinion that Thomas as an artist should earn some remuneration from the flag, he also qualified that position:

Show me a black fella that doesn't have money problems. So I can understand he wants to get some payment for his efforts but I thought there would be some way to be magnanimous about that, that [the] money goes into [a] sort of trust fund or something for the benefit of a bigger thing ... if it is going to be national, for the Aboriginal nation, if there is such a thing, to represent all Aboriginal people, then it has to be bigger than one person saying I'm King Boom.

(Watson et al., 2017a p. 10)

Mundine further qualified his statement, arguing that flying the flag on a flag pole outside a council is 'different to actually having it on a letterhead or on a t-shirt that you then sell. That's what you pay the money for' (Watson et al., 2017a p. 12). In other words, commercial gain in commercial contexts is acceptable, but for Thomas to profit from the flag's use as a symbol that represents Aboriginal people in its relations of state with the Australian government and the world is not.

As a work of art, and as a flag that represents Indigenous Australians, the *Aboriginal Flag* sits in an awkward and lonely place. Copyright law is a construct of Western law, the values of which – as they relate to notions of ownership and property – differ from Indigenous community values. Many Aboriginal peoples do have strong notions of individual property and ownership, but ownership is linked to the requirement to share what one owns with those who have a right to ask

(Macdonald, 2000). In an article titled 'Thoughts on assimilation', which forms part of a critique of the adoption of neo-liberal values by Aboriginal Australians such as Noel Pearson, Foley argues that when Indigenous Australians go from thinking 'What is ours!' to 'What is mine!' a major shift has taken place in their 'psyche' (Foley, 2014b). In Foley's view, they have become assimilated into the neo-liberal values of Western society (Foley, 2014b). To apply Foley's judgement and critique to Thomas's considerable profit from the *Aboriginal Flag* would seem – in the context of his life experience as a Stolen Generations person – to be harsh. Thomas, as stated in Chapter 1, was removed from his family at the age of six. It is important to acknowledge statements such as Foley's as they are part of the internal discourse of contemporary Aboriginal communities, a discourse which is often judgemental. The history of the flag as it relates to its ownership and profit continues to be affected by the disruptive legacies of colonisation: in this instance, the cultural and social ruptures caused by the Stolen Generations and by the application of neo-liberal values to Indigenous life.

In most traditional Aboriginal language groups, as outlined in Chapter 1, Aboriginal artists are understood to be custodians and conduits of knowledge between the spirit world and the mundane world. The individual artist is not seen as the source of creativity, or as the owner of his or her art designs. Rather, the events of the Dreaming provide the great themes of Aboriginal art, the designs of which are perceived to be 'forms of knowledge' that are owned in common by those who have been initiated in Aboriginal law. Within the social, religious and political roles of traditional Aboriginal art, there is no language or purpose for art as a commodity that is traded for profit. Yet across the spectrum of contemporary Aboriginal visual art practitioners – as expressed by Ryan, Watson and Mundine – there is common acceptance that individuals and groups sell their Aboriginal art (but not their ritual designs) in Western art markets for profit. Aboriginal art within colonial contexts has undergone profound transformations. In earning an income from his art, Thomas is doing what the great majority of Aboriginal artists have done to survive and prosper in Western society. Thomas has stated: 'I'm an artist. All my art, you know, is about finance, it's my occupation.' The complication in this case is that the flag is also the symbol of Aboriginal identity, and that, in this context, the *Aboriginal Flag's* ownership by an individual, as stated by Watson and Mundine, is contested.

Copyright registration of the *Aboriginal Flag* represented a significant rupture in its relations and meanings. As a result of the court case, the *Aboriginal Flag* became possibly the only flag in the world that represents a people but which is owned by an individual. In turn, the ideal, strongly held by some Aboriginal people (for example, Anderson and Watson), that Indigenous Australians should control the flag was effectively annulled in Australian law. Through its proclamation the Australian government commandeered significant control of the flag's display and its meanings. The flag that once symbolised all causes Aboriginal – black pride, land rights, black unity and calls of sovereignty – also became the flag of copyright ownership disputes and the flag of state appropriation and symbolic colonisation.

The proclamation of the *Aboriginal Flag* was not the result of a long-term conspiratorial effort on behalf of the Australian government. Rather the proclamation represents a significant event in the historical meanderings of the flag, one that no person or group controlled. Without the Tent Embassy, the flag might never have attained currency. And without Freeman's flag activism at the Commonwealth games, it is unlikely that the Keating government would have sought to register the *Aboriginal Flag* in 1995. It is hard to imagine circumstances in which John Howard – who came to office the year after the flag's proclamation – would have proclaimed the *Aboriginal Flag* as an official flag of Australia. The decision to proclaim the flag, but not seek to register the designer, or assert any controls on its use on behalf of Aboriginal Australians by either the Council for Aboriginal Reconciliation or ATSIC, was in hindsight a very poor one. Were it not for Thomas's legal action, which he pursued at considerable personal effort, the *Aboriginal Flag* would be an official flag of Australia, with no Aboriginal organisation or individual having jurisdiction over its use or meanings; this would have been a disastrous outcome for Indigenous Australians. That has been the fate of the Torres Straits Islands flag, which has fallen into Australian government hands.

The Torres Strait Islander flag<sup>38</sup> was designed in 1992 by Bernard Namok, a Torres Straits Island person (Figure 1.6).<sup>39</sup> Unlike the *Aboriginal Flag*, it has never

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<sup>38</sup> The Aboriginal and Torres Strait Islander Commission recognised the Torres Strait Islander flag in 1992 and gave it equal prominence with the *Aboriginal Flag*. It was also recognised alongside the *Aboriginal Flag* by the Australian government as an official 'Flag of Australia' under the *Flags Act 1953*.

<sup>39</sup> Namok's design was the winning entry to the Cultural Revival Workshop initiated by the Torres Strait Islands' Coordinating Council in 1992.

been formally registered under the *Copyright Act 1968*. No income has been generated by its licence or reproduction. Upon Namok's death in 1993 (he was 31 years old), his family gave the flag to the Torres Strait Islander Regional Council. The council proudly states 'We and our 15 communities own the copyright of the Torres Strait Islander Flag' (Council, 2017). The Torres Strait Islander Regional Council mayor and councillors are principally Torres Strait Islander people. They manage lands transferred under Queensland *Torres Strait Islander Land Act 1991*.<sup>40</sup> The council, however, remains a local government body. As such, it is an Australian government agency staffed by Australian public servants. Effectively, when Namok's family gave their copyright rights to the Torres Islander flag to the council, they ceded ultimate control of the flag to the Australian government.<sup>41</sup>

Copyright registration of the *Aboriginal Flag* greatly enhanced Thomas's personal power base. It has earned him income and lifted his status: once a relatively unknown artist/activist he has become a significant Aboriginal cultural figure and spokesperson on issues such as the Stolen Generations. In this sense, his legal initiative is an expression of Black Power, as he himself has affirmed: 'Well, this artist is an educated man, a proud black man, a proud urban black man, and no one walks over me regarding something I created' (Thomas, 2015 p. 7). The tension in this situation lies in his relationship with the people the flag represents: Aboriginal Australians. In the decade since Thomas asserted copyright ownership of the flag in 1996, his position on the public display of the flag in parliaments and other public spaces changed: it is no longer 'objectionable' but rather something to be 'proud' of. When Aboriginal protesters from the Tasmanian Aboriginal Centre tried to assert their ownership of the flag and demanded that it be taken down from the Tasmanian parliament in 2009 'because it had been hung without their permission', Thomas contradicted the protesters' stance (Brown, 2009). He was quoted in the Hobart *Mercury* newspaper stating that 'permission did not have to be sought for the hanging of the flag under Commonwealth law' (Brown, 2009). The article goes on to quote Thomas:

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<sup>40</sup> The Queensland government retains ownership of the minerals and petroleum on all land in Queensland. It also retains certain rights in regard to forest products and quarry materials on some land transferred under the *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991*.

<sup>41</sup> The council website states that permission to fly the Torres Strait Islander flag is not required, however permission to reproduce the Torres Strait Islander Flag requires council's written consent (Council, 2017).

This is not a flag of demonstration, it is a flag that all people should be proud of. I think the Tasmanian Aboriginal Centre should be proud it is being displayed and respect is being shown to the Indigenous owners of the land, and that respect is coming from the top, the politicians of the state.

(Brown, 2009)

In this statement, Thomas is making it clear that it is he, and not Aboriginal people more broadly, who has authority over the *Aboriginal Flag*'s use and meanings.

### **Ownership**

The operations of power can be well camouflaged, especially when they remain uncontested. Power is 'not a naked fact, an institutional right, nor is it a structure which holds out or is smashed' (Foucault, 1982 p. 792). Rather 'it is elaborated, transformed, organized: it endows itself with processes which are more or less adjusted to the situation' (Foucault, 1982 p. 792). In this Foucauldian reading the 'technique' and the 'form' of power and how 'certain actions [of power] modify others' is emphasised (Foucault, 1982 p. 788). When Thomas came to assert ownership over the *Aboriginal Flag* in 1996–97, he elected to use Western copyright laws to do so. Copyright registration of the flag is the principal 'form' and 'technique' through which Thomas has come to assert his authority and rights over the flag in his relations with both other Indigenous Australians and the Australian government. Thomas engages the services of lawyers who assert his royalty rights when needed (Thomas, 2009 p. 15). That said, the ultimate power dynamic between Howard Thomas and the Australian government is harder to determine, in part because it remains in large part uncontested beyond the flag's copyright registration.

Since 1997, Thomas has principally used his copyright powers to collect copyright revenue for the flag's reproduction, sale and use by businesses. The *Aboriginal Flag* has come to represent a small 'business' with many groups and individuals involved in its reproduction and profit. A standard *Aboriginal Flag* (900 x 1800 mm knitted polyester fabric) from Flagworld, the company with exclusive reproduction rights of the *Aboriginal Flag*, costs AUD \$99. Flagworld sells the *Australian Flag* and the Torres Islander flags (made to the same specifications) for

AUD \$90 (2016 prices). The designers of the Australian and Torres Islander flags do not receive royalty payments. The discrepancy in sales prices relates to the *Aboriginal Flag*'s royalties. In principle, but not always in practice, commercial entities do not have permission to reproduce the flag as a flag, as a company logo or a symbol on a t-shirt without paying Thomas royalty fees. The *Koori Mail*, for example, pays Thomas for its use of the flag in its title banner. The not-for-profit, government-owned Aboriginal Hostels refuses to pay Thomas copyright fees for its use of the *Aboriginal Flag* in its logo. In his relations with Indigenous Australians, as revealed by the Tasmanian Aboriginal Centre's failed attempt to assert a measure of control over the *Aboriginal Flag*'s display in the Tasmania parliament in 2009, Thomas has come to use his copyright registration to assert his authority over the flag use as a public symbol.

The tension that envelops the flag's use and royalty income could be partly abated by uncoupling these two entities, as suggested by Mundine. In this scenario Thomas would continue to earn royalty fees from the commercial sale and use of the flag, while handing over control of its use, and its meanings, to a peak Aboriginal body to be formed in the future. Eventually, when a treaty is signed between the Australian government and Indigenous Australians, an entity will have to be formed that represents Aboriginal and Torres Strait Island people. In this scenario, Aboriginal Australians would effectively control the flag's meaning and use. Concurrently, Thomas and his family could continue to earn royalty fees for its commercial reproduction, just as other Aboriginal artists earn income from their art and its reproduction.

Within the current *détente* determined by proclamation and copyright registration, the *Aboriginal Flag* finds itself in myriad contexts and situations within which its status and readings fluctuate greatly. As a personal emblem, the flag remains seemingly uncompromised by ownership ambiguities relating to its proclamation and copyright registration. Aboriginal people across Australia, perhaps ignorant of the flag's legal status, continue to adorn their bodies, clothes, homes, cars and anything else they can with the *Aboriginal Flag*, as a significant expression of cultural pride and self-identification.

In Wellington, New South Wales, as outlined in Chapter 7, the *Aboriginal Flag* appears to be accepted by the whole community and to serve both Aboriginal and non-Aboriginal agendas. It is a reminder that the region's first peoples are Wiradjuri,



that all the land once belonged to them and that they have pride in their heritage and culture. In the minds of those who desecrate the culturally modified trees, however, the flag appears not to be a powerful enough symbol to warrant attention.

In the remote community of Daguragu, during the highly controversial 2007 Northern Territory Emergency Response (which came to be known as The Intervention), activists used the *Aboriginal Flag* as a symbol of defiance against the government's unilateral actions. Brenda Croft in her essay 'Revolutionize me (and you, and you, and you)', documents how her nephew John Leemans painted over a much-maligned 'NO LIQUOR, NO PORNOGRAPHY' government Intervention sign with the *Aboriginal Flag*. The sign, which was erected on the outskirts of their community, was interpreted to imply that all local Aborigines were 'possible/probable alcoholics, sexual predators and abusers' (Croft, 2012)<sup>42</sup>. For Croft, the flag's use in this way as 'cultural activism' reinforced its status as the 'most successful piece of public art ever created in Australia' (Croft, 2012). As powerful as Leemans's act was to Croft, and very possibly to many members of the local Indigenous community, this act did not transcend its remote context.

In the small town of Balranald located in the south-western border of New South Wales, a quiet but significant confrontation recently played itself out between local councillors and some of the community's Aboriginal elders. Between 2010 and 2011, octogenarian Besley Murray led a hard-fought, and ultimately successful campaign that petitioned the local council to fly the *Aboriginal Flag* permanently in front of council chambers (Holmes, 2017 see Appendix). In Campbelltown in 2016, one of outer Sydney's principal metropolitan regions, the council voted not to permanently display the *Aboriginal Flag*. Aboriginal Elder Lowitja O'Donoghue was reported to be 'gobsmacked and surprised' by the decision, adding 'I didn't think it was a question anymore, anywhere, because the flag does fly everyday in most council areas' (Abbracciavento, 2016). These two case studies affirm that well into the twenty-first century resistance to the display of the *Aboriginal Flag* in the public domain finds its expression in both remote and suburban contexts.

Across Australia the contemporary *Aboriginal Flag* is now also flown alongside the Australian flag in front of prisons. In this context, the flag of black pride, land

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<sup>42</sup> I was unable to view the published article, Revolutionize me (and you, and you, and you) published in the exhibition catalogue *Decolonize me*. Croft kindly forwarded me her draft copy of the essay. Hence the absence of a page number in the citation.

rights and Aboriginal sovereignty is perversely juxtaposed with a legal system that has the highest rates of indigenous incarceration anywhere in the world. The flag's meanings in this context are so entirely contradictory that they are reminiscent of Orwellian 'doublethink' slogans made famous in the novel *Nineteen Eighty-Four*: 'War is Peace', 'Freedom is Slavery', 'Ignorance is Strength'. Ostensibly flown as a symbol of respect for Aboriginal inmates and their families, the Aboriginal Flag in this context can also be read as a symbol of state violence and subjugation of Aboriginal people. Since the Royal Commission into Aboriginal Deaths in Custody (1987–91) Indigenous rates of incarceration have doubled across Australia from 14 to 28 per cent of the total prison population (Haughton, 2016). These men are predominately powerful young men in the prime of life. In front of prisons the flag ultimately communicates a colonial message: here Indigenous warriors are subjugated. As Orwellian prison propaganda, the *Aboriginal Flag* perversely suggests to the inmates and their families: 'Pride is Subjugation', 'Land Rights is Jail', 'Sovereignty is Incarceration'. That Aboriginal people are not outraged by the use of the *Aboriginal Flag* as tool of prison propaganda is a measure of how thoroughly demoralised one significant section of the Aboriginal community – those institutionalised within the prison system – has become.

In Canberra, within the Parliamentary Triangle of the modern federated Australian state, three flags that feature across Australian government buildings are on what appears to be permanent display in front of the High Court of Australia (Figure 8.3). Viewed objectively, as a foreign diplomat or tourist might regard the situation, the *Aboriginal Flag*, the Torres Strait Islander and the Australian flag (with its British ensign) could easily be mistaken to signify that Australia is a nation governed by the laws of three peoples, or that Aboriginal and Torres Islander people enjoy self-government and autonomy. Instead these flags represent a complex charade. The High Court of Australia, according to its Marshal, has only one flag, the Australian flag. It is displayed on top of the building, but it is not visible from the street front. The land upon which the flags are displayed falls under the jurisdiction of the National Capital Authority (NCA). On 7 March 2016, I wrote to the NCA asking them the following questions: 1) Why is the *Aboriginal Flag* displayed in front of the High Court? 2) Which tier of government, institution or individual made the decision to fly the *Aboriginal Flag* in front of the High Court? 3) Does the displaying of the *Aboriginal Flag* in front of the High Court have any legal or constitutional significance in

Australian law? To which National Capital Authority's Freedom of Information Coordinator Kylie Taylor responded, 'After a thorough search of the NCA's files and records management database, I have been unable to identify any documents containing the information you are seeking.' Ms Taylor suggested I direct my enquiries to the Commonwealth Flag Officer, Honours, Symbols and Legal Policy Branch, Government Division, Department of the Prime Minister and Cabinet. By this time, I had already been in correspondence with the Honours, Symbols and Legal Policy Branch of government for over two years. When I contacted them once again they repeated their previously stated position:

As you have been advised the Australian Aboriginal Flag and the Torres Strait Islander Flag are official flags of Australia that were proclaimed under section 5 of the Flags Act 1953. In respect to flag protocol, this implies it has a special position in the order of precedence and there are specific days in the year where the display of the Australian Aboriginal Flag is encouraged by this Department such as Reconciliation Week and NAIDOC week.

While the Department of the Prime Minister and Cabinet issues advice to Australian government organisations on the special days for flying the Indigenous Flags, the flags may be flown at any time at the discretion of the organisation.

(Parry, 2016 see Appendix)

The above statement appears to represent the entirety of the Honours, Symbols and Legal Policy Branch's policy on the display of the *Aboriginal Flag*. From this statement, we can deduce that the act of flying the *Aboriginal Flag* has no legal or constitutional standing in Australian law. The decision to display the *Aboriginal Flag* on Australian government-controlled land has no specific authority and can be undertaken without due process, consultation or consideration of its symbolic meaning or significance. These vague arrangements have come to serve the Australian government well. They afford maximum use and exposure of the *Aboriginal Flag* as propaganda – by all tiers of Australian government – while remaining free of responsibility for its meanings and use by governments or their departments. Whereas this arrangement could be perceived to be the result of a cunning plan, it is more

likely that the Australian government has simply never given sustained long-term consideration to the ramifications of the flag's proclamation. By chance, the flag's vague status as a national flag has worked well for the government, and it has not needed to detail or clarify its policy relating to the flag's use as a national symbol.



Figure 8.3: Matthieu Gallois. *Aboriginal Flag* in front of the High Court of Australia, Canberra. 2017.

In the contemporary examples cited above, the *Aboriginal Flag*'s meanings and significance have been shown to vary depending on its contexts. In all these instances, however, the flag has not transcended its immediate political contexts. Neither in Croft's remote community nor in front of the high court has the display of the flag commanded the nation's attention as it did at the Tent Embassy in 1972, in Shoalhaven Shire in 1982 or in Cathy Freeman's hands in 1994. In part, the flag's loss of resolution and of its power to matter can be attributed to its proclamation by the Keating Labor government, an act that has confused and exhausted its original semiotic resolution and purpose. The government has earned cheap symbolic mileage from the use of the *Aboriginal Flag* since 1995, and, in turn, it has dramatically raised the flag's visibility and profile. Through this process the Australian government has also unwittingly placed itself in a vulnerable position.

It is illustrative to compare and contrast the Tent Embassy and the *Aboriginal Flag* in terms of their histories and meanings as activist symbols. The Tent Embassy

continues to articulate to the world the unresolved rupture and wound at the centre of Australian race relations, Indigenous land dispossession and loss of sovereignty. As an idea, the Tent Embassy remains owned and run by Aboriginal Australians. In its politics, social structure and informal camp aesthetics, the Tent Embassy champions Aboriginality. Conversely, the *Aboriginal Flag*, when flown by the Australian government, represents the progressive ideals of reconciled relations rather than the reality. The nation that boos Indigenous footballer Adam Goodes flies the *Aboriginal Flag*. The nation that denies Indigenous Australians constitutional representation flies the *Aboriginal Flag*. The nation that denies Indigenous Australians a treaty flies the *Aboriginal Flag*.

For the past 30 years, while Harold Thomas focused his energies on his landscape painting in Humpty-Doo, just outside Darwin, the twists and turns of history have fated him with great responsibilities and power. Prior to its proclamation and registration, the flag adorned Aboriginal people, places and institutions. Its status is now omnipresent across the shared Australian public domain. As a result of his decision to assert individual control over the flag through copyright registration, Thomas alone stands before the Australian government as gatekeeper to *Aboriginal Flag* use and meanings. By choice, chance and coincidence, Thomas has the power to lower and raise, or suspend, that symbol at half-mast, or in whatever ways he sees fit. If Thomas were to put his paint brushes aside, and think once again like an activist, he could stipulate that every single *Aboriginal Flag* on government buildings be flown at half-mast on Australia day (or every day) to memorialise over 200 years of brutal colonisation. He could withdraw the flag's use altogether from all Australian government buildings and public spaces until Australia's first nations people have constitutional representation, a treaty and meaningful land rights. Koori Radio presenter and host Lola Forest put a version of this question directly to Thomas in 2015:

Harold, you being the owner of the copyright of the flag, I'll put this question to you: the *Aboriginal Flag*, could you think of deregistering the flag as the official flag until, say, first nations people of Australia have constitutional representation or a treaty out there?

In response, Thomas answered:

I think that's an interesting point. The first time I've heard of that. I would like to think about it. Deregistering? I don't know ... If I was – I was 24 at the time when I made the flag, I'd probably say yes, I wouldn't think twice about it. But it's working, I think, but I know what you are saying it's about symbolism, it's about getting it right. I mean, to respect the *Aboriginal Flag* by whites first by the government but not respecting the issues of treaty and stuff like that correctly and right, I understand that position, I understand it fully. I really don't know. I don't know what the answer to that is at this point. I would have to think more about it. I know there are more pending issues, more concerning issues, regarding treaties and the way we are being still treated. We still live in a very racist country. My children will experience racism, I know for a fact, and their children will also experience racism, whether on the footy oval or off the footy oval, it's a fact of life.

(Thomas, 2015 p. 8)

In his response, Thomas acknowledges and expresses the contradictions in the flag's status. He states that the flag's current status 'is working', but he does not address the question of 'for whom': Harold Thomas, the Australian government, Indigenous Australians? By his own admission, 'We still live in a very racist country.'

The space the *Aboriginal Flag* inhabits is analogous to the unregulated legal space that Michael Anderson, Billy Craigie, Bertie Williams and Tony Coorey discovered on the lawns in front of the Australian parliament on 27 January 1972; with the significant caveat that that space crowns the great majority of public space and building across Australia. It is a space created and determined by the Australian governments and by Western copyright laws. It is a space that offers the Aboriginal activist much opportunity. With a single letter to the Australian government, Thomas could reclaim the stolen flag, radicalise its meaning and quite possibly recalibrate the power dynamics of Australian race relations.

## Conclusion

The *Aboriginal Flag* has witnessed the unfolding dramas large and small, public and private, of Australia's race relations. In the absence of a central dominating figure of the kind that has characterised other peoples struggles – Mahatma Gandhi in India, Martin Luther King in the United States and Nelson Mandela in South Africa – the flag can be viewed as the 'hero' and witness of Indigenous struggles for self-determination. In this odd drama the lead has no speaking parts but is in every scene witnessing the central unfolding events of Australian race relations: the Tent Embassy, the Brisbane Commonwealth games and Bicentenary protests, the Redfern speech, Mabo, Wik, the 2000 Sydney Olympics and the Apology. Across these events, the flag's acute symbolism has afforded it a multiplicity of meanings and associations. In the first instance, it describes the relationship of people to land, land to culture, and culture to identity, thus succinctly describing the premises of Indigenous land rights. It speaks to Indigenous place, belonging and identity. The flag also affirms black pride, advocates Indigenous self-determination, repudiates assimilation and has come to symbolise Indigenous sovereignty. In this sense, this study transcends its topic – the *Aboriginal Flag* – and acts more broadly as a vehicle for understanding Australia's race relations, Australian multiculturalism, Western and Indigenous notions of sovereignty, Indigenous activism, and the role culture plays in Indigenous activism.

The *Aboriginal Flag*'s history neatly divides into two periods. In the first era (1971 -1997) the flag's readings are predominately Indigenous and positive – the flag enjoys many successes and is much loved by Indigenous Australians (and by an ever-growing number of the non-Indigenous people too). Across this era, the flag became one of Australia's most important symbols and demonstrated its power to act as a catalyst for change. Post-proclamation and copyright registration, the flag's meanings become less resolute and therefore less powerful, placing the *Aboriginal Flag* at a crossroads. Whereas the flag has significant reserves of good will across Indigenous communities, there is now a growing trend for nations such as the Larrakia, Euahlayi, Wiradjuri, and many others to create their own area and language-specific flags. This may represent a trend towards communities adopting local as well as national

identities, a fracturing of pan-Aboriginal solidarity and identity, a critique of Thomas's ownership of and profit from the flag, or some combination of the above.

Some 50 years after it was conceived, the *Aboriginal Flag*'s destiny lies once again firmly in the hands of its creator, Harold Thomas. He alone has the power in Australian law to either deregister the flag as an official flag of Australia, or transfer its ownership, and possibly even its royalties to a peak Indigenous governing body. These steps would go some way towards securing the flag's reputation as the flag of Indigenous Australians for future generations. The first option, of deregistering the flag, places a heavy burden of responsibility on Thomas's shoulders. The second option, of transferring the flag's ownership and possibly royalties, is contingent upon the re-formation of a peak Indigenous governing body. Such a group might in turn elect to deregister the *Aboriginal Flag* as an official flag of Australia.

De-registering the flag, whether undertaken by Thomas or a governing Indigenous body, need not be viewed as a rejection of a shared Australian future or a blow to reconciliation, but rather as a decision that reflects a maturing relationship. When power between Indigenous Australians and the Australian state is more equitable, for example when Indigenous Australians have constitutional recognition and a treaty with the Australian state, both Indigenous Australians and the Australian government might then seek to restore the *Aboriginal Flag*'s status as an official flag of Australia. Such a scenario would see the flag's meaning evolve once again. Under those circumstances, the *Aboriginal Flag*, when flown in the shared public domain, could represent reconciled relations, in symbolism and in law, between Australia's first nations people and the Australian state.



## Referencing / Bibliography

- (CONTRIBUTED). 1951. St. Francis' House Semaphore. *Centralian Advocate*, 2 February.
- ABBRACCIARENTO, D. 2016. Campbelltown council votes against permanently flying the Aboriginal flag. *The Advertiser*, 21 March.
- ADORNO, T. 1977. Commitment. *Aesthetics and politics*. London: Verso.
- AKERMAN, P. 1994. Piers Akerman. *Sunday Telegraph*, 28 August.
- ALTMAN, J. C. 2005. *Brokering Aboriginal art: a critical perspective on marketing, institutions, and the state*. Geelong, Vic: Deakin University.
- ANDERSON, M. 2014. Interview between Matthieu Gallois & Michael Anderson. In: GALLOIS, M. (ed.).
- ANDERSON, M. & GIFFORD, B. 2013. The beginnings of the embassy (January 1972). In: FOLEY, G., SCHAAP, A. & HOWELL, E. (eds.) *Aboriginal Tent Embassy: sovereignty, Black Power, land rights and the state*. Abingdon, Oxon: Taylor & Francis.
- ANONYMOUS. 1824. Letter to the editor. *Sydney Gazette*, 14 October 1824, p.4.
- AP. 1995. Recognition of Aborigines' flag stirs flap among Australians. *St. Louis Post*
- ATTWOOD, B. 1999. *Struggle for Aboriginal rights: a documentary history*. St Leonards, NSW.: Allen & Unwin.
- AUSTRALIA, G. O. W. 1993. *Evidentiary requirements of occupation under sections 47a and 47b Native Title Act* [Online]. Available: [http://www.dpc.wa.gov.au/lantu/MediaPublications/Documents/Evidentiary\\_requirements.pdf](http://www.dpc.wa.gov.au/lantu/MediaPublications/Documents/Evidentiary_requirements.pdf) [Accessed 23 Feb 2017].
- AUSTRALIA, N. M. O. 2017. *Programmed to be white* [Online]. Canberra: National Museum of Australia. Available: [http://www.nma.gov.au/exhibitions/from\\_little\\_things\\_big\\_things\\_grow\\_behind\\_the\\_scenes/programmed\\_to\\_be\\_white](http://www.nma.gov.au/exhibitions/from_little_things_big_things_grow_behind_the_scenes/programmed_to_be_white) [Accessed 23 Feb 2017].
- AUSTRALIA. PARLIAMENT. SENATE. STANDING COMMITTEE ON, L. & CONSTITUTIONAL, A. 2006. *Unfinished business: Indigenous stolen wages*. Canberra: Australian Government.
- BADHAM, V. 2014. *Richard Bell: 'Asylum-seeker policy is a manifestation of Australian racism'* [Online]. Internet: The Guardian Available: <http://www.theguardian.com/culture/australia-culture-blog/2014/feb/21/richard-bell-asylum-seeker-policy-is-a-manifestation-of-australian-racism> [Accessed 23 Feb 2017].
- BECKER, H. S. 2008. *Art worlds*. Berkeley, Calif.: University of California Press.
- BEHRENDT, L. 2003. *Achieving social justice*. Annandale, NSW: The Federation Press.
- BEHRENDT, L. & PORTER, A. 2012. Rates of Indigenous incarceration: is history repeating? *Country, spirit and belonging. The Wiradjuri in Wellington valley*. Dubbo, NSW: Published with the support of Wellington council and Wellington Valley Wiradjuri Aboriginal Corporation.
- BELL, R. 2011. Richard Bell. In: BUTLER, R. (ed.) *James C. Scuris artist interview series*. State Library of Queensland.
- BEN-MESSAHEL, S. 2000. Speaking with Sally Morgan. *Antipodes*, 14, 99-103.

- BIDDLE, J. 2012. Yiwarra Kuju: the canning stock route - making (not taking) history. *Art Monthly Australia*, 32-35.
- BIRCH, T. 1996. Gariwerd: a colonial ghost story. *Beyond the Divide*, 1, 5.
- BISHOP, C. 2012. Participation and spectacle: where are we now? In: THOMPSON, N. (ed.) *Living as form: socially engaged art from 1991-2011*. New York: MIT Press.
- BOURDIEU, P. 1984. *Distinction: a social critique of the judgement of taste*. Cambridge, Mass.: Harvard University Press.
- BRADY, W. 2007. That sovereign being: history matters. *Sovereign subjects: indigenous sovereignty matters*. Crows Nest, NSW: Allen & Unwin.
- BRENNAN, G. 1992. Mabo v Queensland No. 2 In: REPORTS, A. L. (ed.).
- BRIGGS, R. & JACKSON, M. 2011. Carved trees, Aboriginal cultures of NSW. In: WALES, S. L. O. N. S. (ed.). State Library of New South Wales.
- BROWN, D. 2009. Flag designer blast for black protesters. *Hobart Mercury*, 8 October, 2009.
- BROWNING, D. 2012. Decolonising now: the activism of Richard Bell. In: ART, M. U. M. O. (ed.) *Richard Bell lessons on etiquette and manners*. Monash University Museum of Art: Monash University.
- BRUCE, T. & WENSING, E. 2009. 'She's not one of us': Cathy Freeman and the place of Aboriginal people in Australian national culture. *Australian Aboriginal Studies*.
- CALLANAN, T. 2011. *Angry Bolt rejects 'eugenics' claim* [Online]. <http://www.abc.net.au/news>: ABC News. [Accessed 15 December 2015].
- CAMPBELL, J. 2002. *Invisible invaders: smallpox and other diseases in Aboriginal Australia, 1780-1880*. Carlton South, Vic.: Melbourne University Press.
- CARTY, J. 2012. Karlamilyi. In: COATES, E. & SULLIVAN, G. (eds.) *We don't need a map: a Martu experience of western desert art*. Fremantle, WA.: Fremantle Arts Centre.
- CARUANA, W. 2012. *Aboriginal art*. Port Melbourne, Vic.: Thames & Hudson Australia.
- COLE-ADAMS, J. 1995. Political fury aflutter over Aboriginal flag. *The Canberra Times*, 5 July.
- COMMISSION, A. L. R. 2013. *Context for reform. Land rights and native title in the states and territories* [Online]. Web site: Australian Law Reform Commission. Available: <https://http://www.alrc.gov.au/publications/land-rights-and-native-title-states-and-territories> [Accessed 23 February 2017].
- COMMISSION, H. R. A. E. O. 1997. *Bringing them home* [Online]. Sydney NSW: Human Rights and Equal Opportunity Commission. Available: [https://http://www.humanrights.gov.au/sites/default/files/content/pdf/social\\_justice/bringing\\_them\\_home\\_report.pdf](https://http://www.humanrights.gov.au/sites/default/files/content/pdf/social_justice/bringing_them_home_report.pdf) [Accessed 23 Feb 2017].
- COUNCIL, T. S. I. R. 2017. *Torres Strait Islander flag* [Online]. Torres Strait Islander Regional Council web site: Australian government. Available: <http://www.tsirc.qld.gov.au/our-work/torres-strait-islander-flag> [Accessed 22 January 2017].
- CP. 1994. Australians in flap over flag; use of Aboriginal banner angers chef de mission. *The Gazette*, 25 August, p.1.
- CROFT, B. 2012. Revolutionize me (and you, and you, and you). *Decolonize me*. Montreal, QC: Ottawa Art Gallery and The Robert McLaughlin Gallery.

- CUBILLO, F. 2000. The Oxford companion to Aboriginal art and culture. In: KLEINERT, S. & NEALE, M. (eds.) *Aboriginal art and culture*. Melbourne: Oxford University Press.
- CURTHOYS, A. 2000. *An uneasy conversation: the multicultural and the Indigenous*. Sydney: UNSW Press.
- CURTHOYS, A. 2002. *Freedom ride: a freedom rider remembers*. Crows Nest, NSW.: Allen & Unwin.
- DANTO, A. 1964. The artworld. *The Journal of Philosophy*, 61, 571-584.
- DAVIES, A. 2016. Pauline Hanson questions the validity of the Aboriginal flag. *Queensland Times*, 19th Jan 2016 5:00 AM Updated: 1:55 PM
- DEAN, A. 1997. 'Great day' for flag's designer. *Sydney Morning Herald*, 10 April, 1997.
- DEMOS, T. J. 2008. Questionnaire: Demos. *October*, 34 - 37.
- DICKIE, G. 1984. *The art circle: a theory of art*. New York: Haven Publications.
- DYCK, N. 1985. *Indigenous peoples and the nation-state: 'Fourth World' politics in Canada, Australia and Norway*. St. John's, Nfld.: Institute of Social and Economic Research, Memorial University of Newfoundland.
- EIDELSON, M. 2014. *Yalukit William. The river people of Port Philip*. Melbourne: City of Port Philip.
- ENRIGHT, L. 1982. Aborigines fly flag. *The Canberra Times*, 7 July
- ENWEZOR, O. 2008. Questionnaire: Enwezor. *October*, 41 - 44.
- FAIRLEY, G. 2015. *Harvard makes new discoveries about bark painting* [Online]. World wide web: Artshub. Available: <http://visual.artshub.com.au/news-article/news/museums/gina-fairley/harvard-makes-new-discoveries-about-bark-painting-249617> [Accessed 6, March 2017].
- FARLEY, A. 2011. Reclaiming Aborigeneity: Richard Bell. *Cultural survival* [Online]. Available from: <https://http://www.culturalsurvival.org/publications/cultural-survival-quarterly/reclaiming-aborigeneity-richard-bell> [Accessed May 29 2016].
- FISHER, L. 2016. *Aboriginal art and Australian society, hope and disenchantment*. London: Anthem Press.
- Australian daze*, 1988. Directed by FISKE, P.
- FLAK, P. & MARTIN, G. 2007. Misconstruing Indigenous sovereignty: mainting the fabric of Australian law. In: MORETON-ROBERTSON, A. (ed.) *Sovereign subjects*. Crows Nest, NSW.: Allen & Unwin.
- FOLEY, F. 2006. *The art of politics, the politics of art: the place of Indigenous contemporary art*. Southport, Qld.: Keeaira Press.
- FOLEY, G. 2001. *Black Power in Redfern 1968 - 1972* [Online]. Internet: Gary Foley. Available: [http://www.kooriweb.org/foley/essays/essay\\_1.html](http://www.kooriweb.org/foley/essays/essay_1.html) [Accessed 10 March 2017].
- FOLEY, G. 2007. The Australian Labor Party and the Native Title Act. In: MORETON-ROBERTSON, A. (ed.) *Sovereign subjects: Indigenous sovereignty matters*. Crows Nest, NSW.: Allen and Unwin.
- FOLEY, G. 2014a. A reflection on the first thirty days of the embassy. In: FOLEY, G., SCHAAP, A. & HOWELL, E. (eds.) *The Aboriginal Tent Embassy. Sovereignty, Black Power, land rights and the state*. Abington, Oxon: New York: Routledge
- FOLEY, G. 2014b. *Thoughts on Assimilation* [Online]. The Koori History Website Available:

- <http://www.kooriweb.org/foley/essays/tracker/tracker31.html>  
[Accessed 8 March 2017].
- FOLEY, G. 2015. *1970 Black Power conference in Atlanta, Georgia* [Online]. The Koori History Website: Gary Foley. Available:  
<http://www.kooriweb.org/foley/images/history/1970s/ustrip/usdx.html>  
[Accessed 16 Decemeber 2015].
- FOLEY, G., SCHAAP, A. & HOWELL, E. (eds.) 2014. *The Aboriginal Tent Embassy. Sovereignty, Black Power, land rights and the state*, Abington, Oxon: New York: Routledge
- FOUCAULT, M. 1982. The subject and power. *Critical Inquiry*, 8, 777-95.
- FOUCAULT, M. 1988. *Politics, philosophy, culture interviews and other writings, 1977-1984*. New York; London: Routledge
- FRASER, A. 2004. The art of politics. *ARTFORUM*. New York: Artforum International Magazine.
- FRENCH, A. 2002a. *Seeing the Centre: the art of Albert Namatjira, 1902-1959*. Canberra: National Gallery of Australia.
- FRENCH, A. 2002b. *Seeing the Centre: the Art of Albert Namatjira, 1902-1959*. Canberra: National Gallery of Australia.
- FRY, T. & WILLIS, A.-M. 1989. Aboriginal art: symptom or success? *Art in America*. New York: Brant Publications.
- GALLOIS, M. 2012. *Country, spirit and belonging. The Wiradjuri in Wellington valley*. Dubbo, NSW.: Published with the support of Wellington council and Wellington Valley Wiradjuri Aboriginal Corporation.
- GALLOIS, M. 2016. The Aboriginal Flag as activist art. *Australasian Journal of Popular Culture*, 5.
- GALLOIS, M. & MACDONALD, G. 2012. Colonisation. In: GALLOIS, M. (ed.) *Country, spirit and belonging. The Wiradjuri in Wellington Valley*. Dubbo, NSW: Published with the support of Wellington council and Wellington Valley Wiradjuri Aboriginal Corporation.
- GECZY, A. 2012. The air-conditioned desert: curating aboriginal art. *Art Monthly Australia*, 44-46.
- GINSBURG, F. & MYERS, F. 2006. A history of Aboriginal futures. *Critique of Anthropology*, 26, 27-45.
- GIVEN, J. 1995. Red, black, gold to Australia: Cathy Freeman and the flags. *Media Information Australia*, 75, 44-56.
- GOVERNMENT, A. 1958. Assimilation of our Aborigines. In: MINISTER FOR TERRITORIES, W. T. C.-O. O. T. M. R. F. A. W. I. A. S. (ed.). Canberra: Commonwealth Printer.
- GOVERNMENT, A. 2014. *Operation sovereign borders* [Online]. Internet: Department of Immigration and Border Protection. Available:  
<http://www.customs.gov.au/site/operation-sovereign-borders.asp>  
[Accessed 15 December 2015].
- GOVERNMENT, A. 2017a. *Bark petitions: Indigenous art and reform for the rights of Indigenous Australians* [Online]. Canberra: Australian Government Available: <http://www.australia.gov.au/about-australia/australian-story/bark-petitions-indigenous-art> [Accessed 23 February 2017].
- GOVERNMENT, A. 2017b. *Yirrkala bark petitions 1963 (Cth)* [Online]. Museum of Australian Democracy. Available: <http://foundingdocs.gov.au/item-did-104.html> [Accessed 6 March 2017].

- GOVERNMENT, N. Z. 2015. *The national Māori flag* [Online]. New Zealand: Ministry for Culture and Heritage. Available: <http://www.nzhistory.net.nz/politics/flags-of-new-zealand/maori-flag> [Accessed 6 March 2017].
- GRANT, S. 2016. *Talking to my country*. Sydney: Harper Collins.
- GRIFFIN, T. 2004. The art of politics. *Artforum*. NY.: Artforum International Magazine.
- GRIFFIN, T. 2008. Questionnaire: Griffin. *October*, 71 - 76.
- GROYS, B. 2008. *Art Power*. Cambridge: MIT Press.
- HAEBICH, A. 2006. Assimilation and hybrid art: reflections on the politics of Aboriginal art. In: FOLEY, F. (ed.) *The art of politics, the politics of art: the place of indigenous contemporary art*. Southport, Qld.: Keeaira Press.
- HAEBICH, A. 2008. *Spinning the dream: assimilation in Australia 1950-1970*. North Fremantle, WA.: Fremantle Press.
- HASLUCK, P. 1961. Verbatim records of proceedings. *Native Welfare Conference*. Darwin.
- HAUGHTON, J. 2016. The 25th anniversary of the Royal Commission into Aboriginal deaths in custody. In: AUSTRALIA, P. O. (ed.). Canberra: Parliament of Australia.
- HEALY, C. 2001. 'Race portraits' and vernacular possibilities: heritage and culture. In: BENNETT, T. & CARTER, D. (eds.) *Culture in Australia: policies, publics and programs*. New York: Cambridge University Press.
- HEISS, A. & GIBSON, M.-J. 2017. *Aboriginal people and place* [Online]. City of Sydney web site: City of Sydney. Available: <http://www.sydneybarani.com.au/sites/aboriginal-people-and-place/>. [Accessed 6 March 2017].
- HENDERSON, A. 2014. *Prime Minister Tony Abbott describes Sydney as 'nothing but bush' before First Fleet arrived in 1788* [Online]. <http://www.abc.net.au/news>: ABC News. Available: <http://www.abc.net.au/news/2014-11-14/abbot-describes-1778-australia-as-nothing-but-bush/5892608> [Accessed 15 December 2015].
- HOBERMAN, J. 2011. Jack Smith's posthumous career. *Artforum*. New York: Artforum International Magazine.
- HOLMES, C. 20 January 2017. *RE: Aboriginal flag policy*. Type to GALLOIS, M.
- IRELAND, T. 2005. Conservation management plan for the Maynggu Ganai historic site, Wellington NSW. In: THE NATIONAL PARKS AND WILDLIFE DIVISION, N. D. O. E. A. C. (ed.). Griffin: NRM Pty Ltd.
- JOHNSON, V. 2007. *Papunya painting: out of the desert*. Canberra, ACT.: National Museum of Australia Press.
- JONES, A. 1988. *Aboriginal sites of New South Wales Hurstville, NSW*: NSW National Parks and Wildlife Service.
- KEATING, P. 1993. *Opportunity and care, dignity and hope, 1993*. National Archives of Australia: Australian Government.
- KEATING, P. 1995. *John Howard's mean spirited position on Aboriginal flag*. Canberra: Keating, PJ.
- KLEINERT, S. & KOCH, G. (eds.) 2012. *Urban representations: cultural expression, identity and politics*, Canberra ACT: Australian Institute of Aboriginal and Torres Strait Islander Studies.



- KLUGMAN, M. & OSMOND, G. 2013 *AFL: the ugly game of enlightened racism* [Online]. Melbourne: Fairfax. Available: <http://www.theage.com.au/comment/afl-the-ugly-game-of-enlightened-racism-20130416-2hy9b.html> [Accessed 23 Feb 2017].
- KOLETH, E. 2010. *Multiculturalism: a review of Australian policy statements and recent debates in Australia and overseas* [Online]. Canberra: Parliament of Australia. Available: [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1011/11rp06](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1011/11rp06) [Accessed 23 Feb 2017].
- KONDOS, A. 1982. The burning of the Aboriginal flag: a study of racism in Shoalhaven. School of Sociology: University of New South Wales.
- KWAN, E. 2006. *Flag and nation: Australians and their national flags since 1901*. Sydney: UNSW Press.
- LAND, C. 2015. *Decolonizing solidarity*. London: Zed Books.
- LANGTON, M. 1994. Aboriginal art and film - the politics of representation. *Race Cl.*, 35, 89-106.
- LANGTON, M. 2000. Religion and art from the colonial conquest to post-colonial resistance. In: KLEINERT, S. & NEALE, M. (eds.) *The Oxford companion to Aboriginal art and culture*. Melbourne: Oxford University Press.
- LEAGUE, T. U. N. I. A. A. A. C. 2016. *The UNIA flag* [Online]. The official web site of the Universal Negro Improvement Association and African Communities League 1918 and 1929 of the world. Available: <http://www.theunia-acl.com/index.php/history-red-black-green> [Accessed 15 December 2015].
- LEAGUE, U. N. I. A. A. A. C. 2017. *Marcus Garvey 1887-1940* [Online]. The official web site of the Universal Negro Improvement Association and African Communities League 1918 and 1929 of the world: UNIA-ACL. Available: <http://www.theunia-acl.com/index.php/marcus-garvey-1887-1940> [Accessed 15 December 2015].
- LESLIE, T. & CORCORAN, M. 2014. *Operation sovereign borders* [Online]. <http://www.abc.net.au/news>: ABC News. Available: <http://www.abc.net.au/news/interactives/operation-sovereign-borders-the-first-6-months/> [Accessed 15 December 2015].
- LEVY, D. 2014. *Things I don't want to know – a response to George Orwell's 1946 essay 'Why I write'*. London: Penguin Books.
- MACDONALD, G. 2000. Economies and Personhood: Demand Sharing among the Wiradjuri of New South Wales. In: WENZEL, G. W., HOVELSRUD-BRODA, G. & KISHIGAMI, N. (eds.) *The Social Economy of Sharing: Resource Allocation and Modern Hunter-Gatherers*. Osaka National Museum of Ethnology.
- MACDONALD, G. 2012. Australia's first native title claim. In: GALLOIS, M. (ed.) *Country, spirit and belonging. The Wiradjuri in Wellington Valley*. Dubbo, NSW.: Published with the support of Wellington council and Wellington Valley Wiradjuri Aboriginal Corporation.
- MANSELL, M. 1998. *Back to basics - Aboriginal sovereignty* [Online]. Available: <http://www.kooriweb.org/gst/sovereignty/back-to-basics.html> [Accessed 10 December 2015].

- MARTIN, S. 2014. *Black circle may prove missing link to lost first Aboriginal flag* [Online]. The Australian: News Limited. Available: <http://www.theaustralian.com.au/national-affairs/indigenous/black-circle-may-prove-missing-link-to-lost-first-aboriginal-flag/news-story/2ec19f1dd876f39fe6a27e0d9462c361> [Accessed 23 March 2016].
- MASON, C. J. 1993. *Coe v Commonwealth*. In: AUSTRALIA, H. C. O. (ed.) *HCA 42; (1993) 68 ALJR 110; (1993) 118 ALR* Internet: High Court of Australia.
- MASTERS, R. 1994. Tunstall, Freeman flag row. *Sydney Morning Herald*, 25 August, p.64.
- MAYNARD, J. 2007. *Fight for liberty and freedom: the origins of Australian Aboriginal activism*. Canberra: Aboriginal Studies Press.
- MAYNARD, J. 2014. Tracking back: parallels between the 1920s Aboriginal political movements and the 1972 Tent Embassy. In: FOLEY, G., SCHAAP, A. & HOWELL, E. (eds.) *The Aboriginal Tent Embassy. Sovereignty, Black Power, land rights and the state*. Abington, Oxon: New York: Routledge
- MCCULLOCH, S. 1999. *McCulloch's contemporary aboriginal art: the complete guide*. ACT: National Library of Australia.
- MCGREGOR, R. 2011. *Indifferent inclusion: Aboriginal people and the Australian nation*. Acton, ACT.: Aboriginal Studies Press.
- MCLEAN, I. (ed.) 2011. *How Aborigines invented the idea of contemporary art: writings on Aboriginal art*, Sydney, N.S.W.: Institute of Modern Art and Power Publications.
- MCMAHON, W. P. M. 1972. *Australian Aborigines, commonwealth policy and achievements*. Canberra: Government Printer.
- MCNEILL, D. 2005. Art and disobedience. In: MCNEILL, D. & BEGG, Z. (eds.) *Disobedience*. Sydney: Ivan Dougherty Gallery.
- MICHAEL, B. 2014. Joko urged to quit Papua 'with pride'. *Sydney Morning Herald*, 12 December.
- MORETON-ROBERTSON, A. 2007. Sovereign subjects. In: MORETON-ROBERTSON, A. (ed.) *Sovereign subjects: Indigenous sovereignty matters*. Crows Nest, NSW.: Allen & Unwin.
- MORGAN, S. 1989. *My place*. Fremantle, W.A.: Fremantle Arts Centre Press.
- MORPHY, H. 1998. *Aboriginal art*. London: Phaidon Press.
- MORPHY, H. 2007. *Becoming art: exploring cross-cultural categories*. Sydney: University of NSW Press.
- MOULTON, K. 2016. Sovereign art and the colonial canon; are we lost until we are found? In: ART, A. C. F. C. (ed.) *Sovereignty*. Southbank Victoria: Australian Centre for Contemporary Art.
- MUNDINE, D. 2012. The ballad of Jimmy Governor and post in the paddock. *Artlink*, 32, 34-37.
- MUNDINE, D., NEALE, M. & PERKINS, H. 2000. The Oxford companion to Aboriginal art and culture. In: KLEINERT, S. & NEALE, M. (eds.) *Aboriginal art and culture*. Melbourne: Oxford University Press.
- MYERS, F. 2007. Painting at Yayayi, 1974. In: JOHNSON, V. (ed.) *Papunya painting: out of the desert*. Canberra, A.C.T.: National Museum of Australia Press.
- NOONUCCAL, O. 2008. Assimilation – No! In: HEISS, A. & MINTER, P. (eds.) *Macquarie Pen anthology of Aboriginal literature*. Crows Nest NSW: Allen & Unwin.

- NORMAN, H. 2015. *'What do we want?': a political history of Aboriginal land rights in New South Wales*. Acton, ACT.: Aboriginal Studies Press.
- PARRY, M. 14 April 2016. *RE: Aboriginal flag and the high court of Australia*. Type to GALLOIS, M.
- PERKINS, H. 2007. *One sun one moon: Aboriginal art in Australia*. Sydney: Art Gallery of New South Wales.
- PERKINS, H., CRACKNELL, J., LONERGAN, P., MULFORD, C. & O'CALLAGHAN, G. 2010. Eora journey international review. Sydney: City of Sydney.
- PERKINS, H. & LYNN, V. 1993. *Australian perspecta 1993*. Sydney: Art Gallery of New South Wales.
- PHILIPOTT, D. 2016. Sovereignty. In: ZALTA, E. N. (ed.) *Stanford encyclopedia of philosophy*. Summer 2016 Edition ed. Internet: Metaphysics Research Lab, Stanford University.
- PREMIER, T. H. D. A. M. 2015. Aboriginal flag to fly at Victorian parliament. Department of Premier and Cabinet.
- PROJECT, A. S. H. 2017. *History Matters* [Online]. Web: City University of New York, George Mason University, W. K. Kellogg Foundation. Available: <http://historymatters.gmu.edu/mse/songs/question1.html> [Accessed 15 December 2015].
- QUINN, K. 2011. *Bolt loses high-profile race case* [Online]. Age web site: The Age. Available: <http://www.theage.com.au/victoria/bolt-loses-highprofile-race-case-20110928-1kw8c.html> [Accessed 15 December 2015].
- RANCIÈRE, J. 2004. *The politics of aesthetics: the distribution of the sensible*. London: Continuum.
- READ, P. 1981. *The stolen generations: the removal of Aboriginal children in New South Wales 1883-1969*. Surry Hills, NSW.: New South Wales Dept. of Aboriginal Affairs.
- READ, P. 1984. *Down there with me on the Cowra Mission: an oral history of Erambie Aboriginal Reserve, Cowra, New South Wales*. Sydney: Pergamon Press.
- REYNOLDS, H. 1996. *Aboriginal sovereignty: reflections on race, state and nation*. St. Leonards, NSW.: Allen & Unwin.
- REYNOLDS, H. & DENNETT, B. 2002. *The Aborigines* Oxford, UK.: Oxford University Press.
- ROBERTSON, S. 2013. The Aboriginal Tent Embassy: an account of the protests of 1972. In: SCHAAP, A., HOWELL, E. & FOLEY, G. (eds.) *Aboriginal Tent Embassy: sovereignty, Black Power, land rights and the state*. Abingdon, Oxon: Abingdon, Oxon : Taylor & Francis.
- ROCKE, M. 22 March 2016. *RE: Aboriginal flag* Type to GALLOIS, M.
- ROUSSEAU, J.-J. 1993. *The social contract and, discourses*. London: Dent.
- ROWLEY, C. D. 1962. Aborigines and other Australians. *Oceania*, 32.
- ROWSE, T. 2005. Contesting assimilation. In: ROWSE, T. (ed.) *Contesting assimilation*. Perth, W.A.: API Network
- 88: *The true story of the march that changed a nation*, 2014. Directed by RUSSELL WILLIS, A.: Umbrella Entertainment.
- SCHULZ, M. & BARRY, E. 2010. *Most Australians against push to change our flag* [Online]. Internet. Available: <http://www.heraldsun.com.au/news/special-features/push-for-new->



- [australian-flag/story-fn4vgvb6-1225823071408 - content](#) [Accessed 23 Feb 2017].
- SHEPPARD, J. 1997. *Harold Joseph Thomas v David George Brown & James Morrison Vallely Tennant* [Online]. Australasian Legal Information Institute. Available: [http://www.austlii.edu.au/au/cases/cth/federal\\_ct/1997/215.html](http://www.austlii.edu.au/au/cases/cth/federal_ct/1997/215.html) [Accessed 23 March 2016].
- SMITH, T. 2001. Public art between cultures: the 'Aboriginal Memorial,' Aboriginality, and nationality in Australia. *Critical Inquiry* 27, 629-661.
- SOCIETY, W. 2016. *Leard State Forest and Maules Creek* [Online]. The Wilderness Society. Available: <https://http://www.wilderness.org.au/leard-state-forest-and-maules-creek> [Accessed 12 Feb 2016].
- STATISTICS, A. B. O. 1994. *Statistics on the Indigenous peoples of Australia* [Online]. Australian Bureau of Statistics. Available: <http://www.abs.gov.au/ausstats/abs@.nsf/94713ad445ff1425ca25682000192af2/8dc45512042c8c00ca2569de002139be!OpenDocument> [Accessed 15 December 2015].
- STATISTICS, A. B. O. 1995. *Year Book Australia, 1995* [Online]. Internet. Available: <http://www.abs.gov.au/Ausstats/abs@.nsf/Previousproducts/1301.0Feature Article21995?opendocument> [Accessed 30 Jan 2015].
- STATISTICS, A. B. O. 2008. *Aboriginal and Torres Strait Islander population* [Online]. Australian Bureau of Statistics. Available: <http://www.abs.gov.au/ausstats/abs@.nsf/0/68AE74ED632E17A6CA2573D200110075?opendocument> [Accessed 15 December 2015].
- STATISTICS, A. B. O. 2013a. *Aboriginal and Torres Strait Islander prisoners* [Online]. Australian Government. Available: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4517.0main+feature s62013> [Accessed 24 Feb 2017].
- STATISTICS, A. B. O. 2013b. *Changing propensity to identify as being of Aboriginal and Torres Strait Islander origin between censuses* [Online]. Australian Government. Available: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/2077.0main+feature s52006-2011> [Accessed 24 Feb 2017].
- STEKETEE, M. 2002. M-word is Kosher again, but politics won't let it prosper. *The Australian*, 9 May, 2002.
- STROOKOWSKY, M., J 1985. Copyright over design of the Aboriginal flag. In: AFFAIRS, D. O. A. (ed.). M.L.C. Tower Building, ACT. 2606: Director, Commonwealth State Relations Section.
- SULLIVAN, S. 1978. Aboriginal relics in New South Wales. In: SERVICE, N. P. A. W. (ed.). Sydney: National Parks and Wildlife Service.
- SUTTON, P. (ed.) 1988. *Dreamings: the art of Aboriginal Australia*, New York: G. Braziller in association with Asia Society Galleries.
- THE HON. IAN VINER, M. F. A. A. 1977. *Aboriginals in multi-cultural Australia. Our multi-cultural future and the school*. Fremantle Exhibition Hall, Western Australia.
- THOMAS, H. 2002. *Harold Thomas – creator of the Aboriginal flag* [Online]. ABC Radio National. Available:

- [http://www.abc.net.au/dimensions/dimensions\\_in\\_time/Transcripts/s513731.htmBroadcast](http://www.abc.net.au/dimensions/dimensions_in_time/Transcripts/s513731.htmBroadcast) [Accessed March 10 2014].
- THOMAS, H. 2009. A conversation with Harold Thomas. *In: KELLY, R. (ed.)*. Sydney: Crux Australis.
- THOMAS, H. 2015. Interview with Harold Thomas. Koori Radio, Blackchat. *In: FORESTER, L. (ed.) Blackchat*. Redfern, NSW: Koorie Radio.
- THOMPSON, N. 2012. Living as form. *In: THOMPSON, N. (ed.) Living as form: socially engaged art from 1991-2011*. 1 ed. New York: Creative Time, MIT Press.
- TONY 2012. Changes. *Country, spirit and belonging. The Wiradjuri in Wellington Valley (Wellington)*. Dubbo, NSW: Published with the support of Wellington council and Wellington Valley Wiradjuri Aboriginal Corporation.
- TOWERS, K. 1996a. Blacks' flag not for whites. *The Australian*, 25 July, 1996.
- TOWERS, K. 1996b. Non-Aborigine claims blacks' flag copyright. *The Australian*, 26 July 1996.
- WALKER, K. 1969. Black-white coalition can work. *Origin*, 1, 6.
- WARD, T. 2016. *History* [Online]. Adelaide: St John's Anglican Church. Available: [http://www.stjohnsadelaide.org.au/church\\_history.html](http://www.stjohnsadelaide.org.au/church_history.html) [Accessed 17 February 2016].
- WARREN, C. 2007. Could first fleet smallpox infect Aborigines?: - a note. *Aboriginal History*, 31, [152]-164.
- WATSON, I. 1988. The Commonwealth games in Brisbane 1982. *Social Alternatives*, 7, 37-41.
- WATSON, I. 2007. Settled and unsettled spaces: are we free to roam? *In: MORETON-ROBERTSON, A. (ed.) Sovereign subjects: Indigenous sovereignty matters*. Crows Nest, NSW: Allen & Unwin.
- WATSON, N., MUNDINE, D. & RYAN, M. 2017a. Panel Discussion between Nicole Watson, Djon Mundine and Maurice Ryan. *In: FORESTER, L. (ed.) Blackchat*. Sydney: Koori Radio.
- WATSON, N., MUNDINE, D. & RYAN, M. 2017b. Panel discussion, Nicole Watson, Djon Mundine and Maurice Ryan. *In: FORESTER, L. (ed.) Koori Radio, Blackchat*. Sydney: Koori Radio.
- WEBBER, J. 2012. We are still in the age of encounter: section 35 and a Canada beyond sovereignty. *Conference on "35@30: Reflecting on 30 Years of Section 35 of the Constitution Act, 1982*. University of Toronto.
- WEIWEI, A. 2013. *Weiwei-isms*. Princeton, N.J.: Princeton University Press.
- WELLS, A. E. 1971. *This their dreaming: legends of the panels of Aboriginal art in the Yirrkala church*. St. Lucia, Q.: University of Queensland Press.
- WELLS, E. 1982. *Reward and punishment in Arnhem Land, 1962-1963*. Canberra: Australian Institute of Aboriginal Studies.
- WILLIAMS, T. 2013. *Designer of Aboriginal flag Harold Thomas wants help to find the original one* [Online]. news.com.au. Available: <http://www.news.com.au/national/designer-of-aboriginal-flag-harold-thomas-wants-help-to-find-the-original-one/story-fncynjr2-1226633375712> [Accessed 23 Feb 2017].
- WILLIS, A. M. & FRY, T. 1988. Art as ethnocide: the case of Australia. *Third Text*, 2, 3-20.

- WILLIS, A. M. & FRY, T. 2011. Looking back. In: MCLEAN, I. & INSTITUTE OF MODERN, A. (eds.) *How Aborigines invented the idea of contemporary art: writings on Aboriginal contemporary art*. 1st ed. ed. Sydney, NSW.: Institute of Modern Art and Power Publications.
- WITHERS, R. 2004. Speaking volumes: the art of Susan Hiller. *Artforum*. NY.: Artforum International Magazine.
- WOLFE, P. 2006. Settler colonialism and the elimination of the native. *Journal of Genocide Research*, 8, 387-409.
- YUNUPINGU, G. 1998a. We know these things to be true: the third Vincent Lingiari Memorial Lecture. *Journal of Australian Indigenous Issues*.
- YUNUPINGU, G. 1998b. We know these things to be true: the third Vincent Lingiari Memorial Lecture. *Journal of Australian Indigenous Issues*, 1.





## Interview with Harold Thomas on Koori Radio Blackchat

12 August 2015

**Lola Forester:** We're going to shoot up to Larrakia country and speak to the man responsible for the red, black and yellow, and that is the Aboriginal flag. And we've got him on the line, and that's Harold Thomas. Harold, welcome to the program.

**Harold Thomas:** G'day there.

LF: How are you, man?

HT: Fine, I'm fine. Beautiful weather up in the top end. I live at Humpty-Doo.

LF: You're at Humpty-Doo? How long have you been there?

HT: I've been here about 30 years.

LF: 30 years?

HT: Best place you want to live; it's got everything you want. It's only 200ks from Kakadu.

LF: That sounds like that you're going to break into song.

HT: Yeah.

LF: I don't know, most black fellas know who you are but I suppose a lot of the whiter community is starting to get an understanding about who Harold Thomas is because of the flag, or they know the flag. What were your thoughts the first day that flag was flown in Adelaide back in 1971? Can you remember?

HT: I don't know exactly but can you imagine at the height of our political consciousness, as the Aboriginal people's consciousness, you know, everybody was, let's say, electric in the sense of, you know, emotion about rights and justice for Aboriginal people, particularly the urban Aboriginal

people because they were probably the most suppressed people in the country if you were forced to live in the cities and cope with urban life, your world was, let's say, difficult compared to those who lived on reservations and wherever. Not to say they didn't have a hard life but the urban Aboriginal people had this good reason to stand up for the rights because they were targeted on a daily basis through racism.

LF: What about yourself, Harold, you were part of the Stolen Generation, you moved with a lot of the other mob, they moved you to Adelaide to the homes down there, and you got an education.

HT: Yes.

LF: Was it easy for you to come back into the fold, come back to your people in the Northern Territory?

HT: Well, the point is that wasn't a big issue for me, it was about connecting with your people where you lived. I was (indistinct) at the age of six or seven, so that family connection was severe for me because and you were institutionalised in an Aboriginal place so I was always with Aboriginal people up until the age of 12 when I was fostered out, so my identity as being Aboriginal was fixed in the sense, that I'm amongst my own people, irrespective of language, culture or other things, but you connect with your people and your people is the first thing about your identity.

That urban experience, it was the foundation of my strength and character as being Aboriginal, not to say people living in remote areas don't have it, but it was mine and a lot of people, in particular people like Gary, Dennis Walker, Paul Coe and the likes of them, urban placed consciousness made them stronger as political people, and I was part of that type of person.

LF: What was it like for them? You made connections with them on the march in 1971. Were those people there? Was Gary Foley there?

HT: Back then Aboriginal people were invisible, they weren't allowed to be in there, you had to move on and if you didn't have a shilling or two shillings you could be locked up so young Aboriginal men particularly were targeted all the

time if they walked about town and places like that. But, fortunately, in my circumstances I was married as a young man in my early 20s and I had a family so I was always busy doing things, caring for my family, I had a job, made sure I worked and made some money to look after my family. Whilst you're doing that your political consciousness about you surfaced and that came through my experience living in the urban area but I worked at the South Australian Museum, the first Aboriginal in Australia to work in a museum, and that brought me with experience of knowing about Aboriginal material culture, this vast knowledge we had and housed in South Australia the biggest collection in the world, so I was fortunate. So that, with the political consciousness, brought to bear on what was needed for our identity and, you know, back in 1971 when we had the first - when I had my first march, I don't know whether you're aware of Aboriginal Service Day marches were done but I remember in 1967 I was handing out how to vote cards for the referendum whilst I was at high school and in 1970 was my first march in Adelaide and we only had about 20 Aboriginals and about 50 or less white people, which were mainly university students, union persons and the like. That was it.

That first march was an eye-opener for me. We were marching in the front, as we do with placards: stop racism, stand up for your rights, all that stuff, land rights, etcetera. Behind us were universities and unions, they had their banners and stuff. We didn't look visible enough after that. This is wrong, something has to happen, so the flag evolved between the 1971 Aboriginal march, Aboriginal Day March, it wasn't NAIDOC then, and the 1971 Aboriginal Day March, it wasn't NAIDOC then either. These were get-together times, Aboriginal ball and things like that. But that period of 12 months, whilst I was at the museum, the artistic element of myself as an artist and the political driver I had associating with Gary Foley and people like that, and the local (indistinct), brought to fruition the Aboriginal flag and I thought we need our identity to lead it at a march, and it was a flag. The concept was purely Aboriginal - no whites, no outsiders intervene or prompt me or anything, it was just my own personal creativity that brought the Aboriginal flag to its existence and it's still the same as it was those many years ago, it hasn't changed its format, the meaning is exactly the same, which if I could describe



to you the black of the flag represents the Aboriginal people of the past, present and future that stays and remains. The red represents the red ochre, the colour we used in ceremonies, and red of the land and our spiritual relationship to the land. The yellow is also representing yellow ochre and the sun, the giver of life. That is the exact meaning.

LF: Harold, when Cathy Freeman grabbed the flag in 2000 at the Olympics, what was your feelings like that when you saw Cathy win the 400 metres?

HT: I was like everybody else who just felt a great joy of feeling of her as a person, firstly, not the flag, Cathy as a person just conquering the world, you might say. Well, she did at the Olympic games, she won a gold so she's conquered the world in a sense. That was a young woman achieving the highest thing in Australia. It was historical. That I loved first. When she had the flag, that was secondary to it. But somehow it overwhelmed the occasion that her identity stood out far more than anything else so it's a powerful symbol of what Cathy done, and all the Aboriginals just love it and our friends who are white or whatever nationality, that have come here and enjoy this country, most of them loved it as well. So that was a good occasion. Pity it's only a one day of the Australia's experience, it's never happened since.

LF: That's true. Harold, you're an artist and you do landscapes and all of a sudden it came up that you did the Aboriginal flag. Would you say the Aboriginal flag is a piece of art?

HT: Well, it is art. I'm an artist, I'm a professional artist, I make my living as an artist. An artist had the capacity to (indistinct) through experience may be influenced but to create a symbol like that and to understand fully what you're doing, not guesswork, it wasn't an accident, it was a planned, conscious experience of getting it right. Because if you don't get it right the first time, it's mucked up. It's much like the Australian flag, they should have got it right the first time, they had the chance to get it right, but it's sort of in its own agony and pain to satisfy the vast majority. The Aboriginal flag has itself right because in the end when it went to the embassy the people chose that flag above anything else. It's as simple as that. It wasn't forced on people, people just grew to love it as it passed around the country and that's what I love about

it. This is ours? Yes. And it sort of grew to be part of our consciousness, and it's worked. Now artists have got that capacity to do things like that, that's what we are here for on the planet, is to create these images to fulfil our dreams and our experiences but to be inclusive and that flag is inclusive of all Aboriginals.

LF: When we look at the flag, then we look at the 1963 Bark petition, do you reckon this has been effective in bringing about social change in race relations?

HT: The Aboriginal flag bringing - I don't understand the question. Can you say it again?

LF: Do you think it's been effective in bringing about social change in race relations? For example, Cathy Freeman's action with the flag?

HT: Well, the point is I don't think it was meant - it was about us, it was about us, the oppressed people, the first people. We were knocked about all over the place for 200 years, or not quite 200 years, but we were knocked about the place and we had to stand up. Even though people stood up during their colonial periods, standing up for the rights of spears and whatever, and the people from New South Wales, the Bartons and Fergusons, of course they were there first, but people did other demonstrations and petitions and people at (indistinct) and (indistinct) and right across the country. Parts of our history we did all that to stand up for our rights and a symbol had to come along to bring it all together. So this is part of our history, everything that we have done for the 40,000 years, up until today the flag represents that. It's about us protecting our rights and our experiences of being Aboriginal. But not only that, we've shared it, we've given ourselves to it, they use our names, they use all sorts of things about our culture. Canberra, etcetera, is a name that is ours but it's shared, and it's given. That's the sort of people we are but at the same time there are those that like to be thinking of themselves as Aboriginal people and the flag is centre to those people. In most cases it's what they've got, they haven't got their land, haven't got their language, incarcerated at highest rate, haven't got anything. But the flag and the colours, which when you see young girls wearing that, ankles and bangles and all that sort of stuff, it looks

beautiful, just the colours. And they're just showing their identity and their pride, that's what it's for. And that sort of thing, I don't think we can share it because it belongs to us.

LF: That's true. Paul Keating in 1995 made the Aboriginal flag an official flag of Australia. Did anybody contact you from the government before they - - -

HT: No, no, it was ATSIC's time and ATSIC was irresponsible. They thought they had their own rights over it because they didn't believe that an individual had the right over the Aboriginal flag. Hang on a minute, we'll show you people. This is the ATSIC mob. They believed that they had the right, let's say, the authority to utilise the Aboriginal flag whenever they liked, but they didn't. The court case says: no, you don't. There's one person that created it, and that is myself. So things have changed and the fact that they accepted the offer that it should be legalised as a flag, a true flag, under the Flag Act, alongside the Torres Strait flag, that came in after. But aside from being a flag under the Act, it doesn't impede or prevent the emotion and the belonging of the Aboriginal flag to people. Okay, if you have the flag up at all government places and police stations and councils, that's fine. Good on Paul Keating because he gave the flag a place in non Aboriginal institutions. But on Aboriginal Day the flag goes up around the country, and that I'm happy with, yeah. It's a reminder.

LF: It was published in the Deadly Vibe magazine back in the Aboriginal flag in 2007 stated that you went to court to assert the flag's copyright in 1996.

HT: Yes.

LF: Why was that?

HT: The point is that because of ATSIC's attitude I had to take it to court to get the legal right of it, the copyright legal right. All artists, all human beings, when they create something, can have their own sole copyright if it's not copied, if it's not a plagiarised item.

LF: Did you think the flag was being stolen from you? Did you think the symbol was being stolen from you?

HT: No. How could they steal a symbol?

LF: From you and the Aboriginal people.

HT: It's an action of - it was oh, some drunken bloke invented this flag, attitude, in treating the artist with contempt. Well, this artist is an educated man, a proud black man, a proud urban black man, and no one walks over me regarding something I created. That was in my mind. But it goes through the passage of getting it right, it was best to confront the courts and say: look, I own the copyright. Is there any contenders out there? And that was the case so you got some idiots going to court to think they had the right, think they had some effect on the ownership of the flag, but obviously it failed. I was granted the legal right of it because of proof, and it was just a solid case. It had to go to prove it in the ATSIC eye in the government side that there's a particular person that created it and today we know that Aboriginal copyright is a very strong issue about plagiarism and theft of Aboriginal culture and that's an issue. The Aboriginal flag has a lot to do with it, even though we had a court case before regard something carpets that were plagiarising Aboriginal art, cultural art, but the Aboriginal flag is two things: it's a contemporary symbol as well as being an Aboriginal artist's sole, let's say, sole - I'm just trying to find the word. But it's an artist's sole creation. When we look back in Aboriginal culture and art, it's handed down. When you see symbols and all this art work on canvasses and all sort of things, it's handed down. So that's custom, that's law, that is culture. The Aboriginal flag is not handed down. I'm the sole creator. That's the big difference. So there's a contemporary element but it also falls under the (indistinct) term customary law, it is mine and handed down to my children's children's children. It remains within the family, it is my symbol for my people, it is my song, the words are mine, I created it for my people.

LF: Harold, you being the owner of the copyright of the flag, I'll put this question to you: the Aboriginal flag, could you think of deregistering the flag as the official flag until, say, first nations people of Australia have constitutional representation or a treaty out there?

HT: I think that's an interesting point. The first time I've heard of that. I would like to think about it. Deregistering? I don't know. See, is a Torres Strait Islander going to be the official flag for certain groups of people, certain Indigenous? I don't know. If I was - I was 24 at the time when I made the flag, I'd probably say yes, I wouldn't think twice about it. But it's working, I think, but I know what you are saying it's about symbolism, it's about getting it right. I mean, to respect the Aboriginal flag by whites first by the government but not respecting the issues of treaty and stuff like that correctly and right, I understand that position, I understand it fully. I really don't know. I don't know what the answer to that is at this point. I would have to think more about it. I know there are more pending issues, more concerning issues, regarding treaties and the way we are being still treated. We still live in a very racist country. My children will experience racism, I know for a fact, and their children will also experience racism, whether on the footy oval or off the footy oval, it's a fact of life.

LF: So do you think the meaning of the flag has evolved for you over the last 40 years?

HT: Has it what?

LF: Has it evolved, has the meaning, the symbolism - - -

HT: No, it's been the same, it's been the same from the beginning. The symbolism is the same. That's the strength of the flag; you don't change the concept, you don't change anything about it, it remains what it is. And is in the custom of our people of 40,000 years. We don't like to change our symbols, they are steadfast, they remain. That's why our culture has been so strong. It's been so strong because our symbols are not flippant, are not changeable. We make fine adjustments but it's steadfastly the same meaning, like if the song is saying in the desert, it is a song that's been sung 5,000 to 10,000 years ago with variations. That's why our culture is so strong and that's why the connection to our land, whether in the urban area or in the rural or in a remote area, because you're Aboriginal the land and the symbolism of the land and the spiritual content is within us. We have grown with it. You can't shift it. And that's the strength of who we are as belonging to this place. That's probably the greatest

strength of ownership of our land in the spiritual form and in the land itself probably than any race in the world because we've been here 40,000 years and you can't beat that nowhere on the planet.

LF: I know in the Territory and in South Australia many nations have their own flags, they've had them for many years, their own flags.

HT: Yes.

LF: Your mob, you're ....., your mob?

HT: No, I'm Luritja / Wombai. My mother is Luritja, which is from the dessert, but my father is in the Savannah country north of Tanner Creek, wet season country.

LF: Have you thought of actually creating a flag for your nations on your mum and your dad's side if they don't already have one?

HT: What do you mean?

LF: I know a lot of nations - I remember when I went to the flag shop in Darwin many years ago and the guy there pulled out all these flags, because I was looking for the Aboriginal flag, and he pulled out all these other flags. He said: these are all the different Aboriginal nations that have come in here, they've designed their own flag but they haven't come and picked them up yet. And I think in South Australia they've got some nations down there that have created their - - -

HT: You mean local tribes?

LF: Yeah.

HT: People say nations. Their own nations is an awkward one. But I understand people say they are nations, yeah, that's fine, but to have their own flags? What are they trying to do? What are they trying do? We will be a disunited group of people and forced to his disunited. Why want to go down that line? See, solidarity, these things are important basic elements of our struggle. Solidarity. You know, and we are very few identity, those sort of things. If you

start mucking around in separation like the government wants, they like to separate so-called traditional people, semi traditional, rural people, fringe dwellers, etcetera, and urban people, they like to separate us. The flag joins us. One flag. And that's a fine consciousness. A lot of whites are like that. Other native nations or first nations throughout the world like that. What is wrong with having one for all of us? We don't want to go down that track again of disuniting ourselves when the whites have been disuniting us for 200 years. It's a nonsense story that one.

LF: But isn't it important that people maintain who they are, the language, the customs?

HT: Yes, but it doesn't help the bigger picture. The bigger picture. If you are going to a treaty, are we going to have all these loads of nations, little nations with their flags? The government will say: what the hell are you doing? You've got to have one flag, one voice, or let's say several meaningful, bright well thought out men and women who tackle this at the top level. I mean, people at the lower level, or wherever they are, who are not engaged in that language of this sort of thing must be aware in their nations groups but it has to travel up to one point and that one point is the Aboriginal flag with all these speakers. That's how I see it. We need those Paul Coes and Foleys and Dobsons and everybody and Lantons to get up there and get it right. You've got to get it right the first time. Don't make a mistake. It's like the flag, you get it right the first time and it works. You muck it up at the top, we're all bugged for life. That's how I see it.

LF: Harold, thank you very much. It's really good because there's a lot of people out there don't have an understanding and I'm sure that they will get an appreciation of listening to you today.

HT: Oh, yes. I'm still 24 years old.

LF: You're still 24 years old? You're still doing your water colours?

HT: Yes. I paint the wildlife, I paint portraits. I just finished a portrait of my father who just passed away; he was 92. But I did a portrait of him, and that's my last thing, I haven't painted much. But I've just finished off a landscape for one of

my grandsons for his birthday. I do water colours and drawings and I've got some big projects, etcetera. My way of life is to paint pictures.

LF: Is any of the family following you? Have you got any of your kids becoming artists?

HT: Artistic, yeah, musical and artistic, yep. It's in the blood. I believe I got it from my mother.

LF: You got it from your mother?

HT: (indistinct).

LF: And also too, when the flag is registered, are you getting the appropriate or the proper royalties?

HT: Well, that's another issue about issuing licences for people because it becomes a commercial element because people make money, thousands of dollars - not in my pocket - elsewhere. Other Aboriginals sell those items for profit. Not to give money away, for profit.

LF: So do you mind that Aboriginal people are out there creating things with the flag design on it?

HT: The point is it's a legitimate item under the Act that if you utilise the Aboriginal flag for monetary gain, well, it becomes a problem because I've licensed out the Aboriginal flag to responsible companies to manufacture and distribute. For instance, there's a company called Carroll & Richardson - Flagworld Pty Ltd, you know, it's the organisation that I chose to manufacture flags, which is distributed out of Australia, but there are companies that do the same illegally, they are breaking the law. It happens. It's my design, I own the copyright, and if someone is making money from it they're breaking the law and I've taken some people to court over it. So these things are happening on the other side of the usage of the Aboriginal flag, and it's unfortunate that's the case but that's the way it is, you know. I'm an artist. All my art, you know, is about finance, it's my occupation.



LF: Harold, thank you very much for coming on and, like I said, making people aware more of your thoughts, how you're feeling.

HT: Wake up some people.

LF: Wake up some people.

HT: You know the old saying: the fire in the belly.

LF: Yes.

HT: Yes, if you don't have it you're not true. Once you're an urban black activist, you remain it for the rest of your life no matter where you live.

LF: That's true.

HT: I live out in the rural area south of Darwin and I love it here.

LF: Great.

HT: Okay then.

LF: Okay, Harold, you have a wonderful day and thank very much for just giving us some insights into your thoughts from the beginning of creating the flag to how your feelings are today.

HT: Okay then.

LF: Thank you.

HT: Thank you.

LF: Bye for now. That was Harold Thomas, the designer of the Aboriginal flag and his thoughts so you've heard it from him yourself here on Blackchat.

## Interview between Mathieu Gallois & Michael Anderson

3 November 2014

**Mathieu Gallois:** Could you start, please, by discussing the role of art in Indigenous activism in Australia, so specifically in terms of Indigenous art being used in activism, for example the Bark Petition.

**Michael Anderson:** The Bark Petition is symbolic of the way in which we presented our material because we were people who had a material culture and we didn't have the written language. Where I come from we have the dendroglyphs, which are the carvings on the trees, and these carvings tell our stories so all that was necessary was to talk about our stories symbolising those things. Other art forms were, of course, our sacred symbols on the coolamans, which were the boards where the stories were told if you didn't have trees. In terms of presenting any evidence, we had no idea of what writing meant, our old people had no idea, they had no idea of what the purpose of writing was, what it could do for you, its role in society, and how that could work. Art was an expression but our people did not understand that it could take the form of a writing as an alternative and it wasn't until the Bark Petition that they realised the significance of presenting something in our style and of course our form of writing is in an art form.

MG: Do you think that was an effective campaign strategy?

MA: I think it's very important in terms of the historical factor because we didn't write on the A4 paper, those people presented it in a Bark Petition and that's consistent with our law and culture, which is now recognised in the common law of this country as a consequence of Mabo. I've been telling people now, because I've been finding people as I've been going around talking about communities, about sovereignty, they're bringing out all these old boomerangs and old boards that they thought were just patterns and they tell the story. Hang on a minute, what you're telling me there with that there that your great grandfather did and the design from the stories he's done and the patterns that are on those things, that's your title to land, that's your Certificate of Title,

because it's your law and culture connecting you to land, it's connecting you to the animals, it's connecting you to your tokenism, and I said: that's your Title Deed to everything that you sit here and talk about. And our people still don't understand the significance of it to this day and art is a very, very valuable resource in terms of establishing our title.

MG: In your opinion, have these works been effective in bringing about social change in race relations?

MA: No. No. In the modern world the people are still now doing paintings, and they're quite unique actually. If you were to truly look at the significance of those paintings, you get a people painting an area of land as if they were up in the sky sitting in some helicopter or some big satellite up there, photographing the earth and painting the earth and telling the story because that's what you're looking at on those paintings, and the people just sit down under a tree and just get a canvas and they paint their country, they paint their stories. That could be anywhere between 200 square kilometres, it could be 2,000 square kilometres, but it tells the story of the land.

MG: From what you're saying, it sounds like you're saying that it's an under utilised resource there in terms of activism?

MA: Absolutely; the people still don't understand the significance of it. They paint it for commercial reasons, they don't understand the political and legal authority that it has in terms of representing their titles.

MG: Do you consider the Aboriginal flag to be a work of art?

MA: I think it's a work of art in the first instance. Harold Thomas, all of a sudden, realised everyone else has got a flag so we need a flag, and so he did that and the way in which he constructed that flag was quite unique in that the soil - most of Australia is red soil in the centre where the founder comes from, or where the designer comes from. And, of course, then they've got the black people of the land, skin is black, and not every part of Australia was totally black, some things in the first instance. And, of course, the circle is the sun. All those things are relevant in terms of our story - it's all symbolism, of course. However, the red, black and yellow is an important thing to think

about - and I don't think too many people place weight on this - is that Harold Thomas was very much influenced by the Germans, by the Lutheran Church and of course the Germans have red, black and yellow in their flag.

MG: That's really interesting; I hadn't heard that idea before. Because he talks about going to the Australian Museum, working at the museum in Adelaide as his first job after graduating from art school, and he says that he was able to spend a lot of time looking at all these incredible Aboriginal artifacts in the collection and he studied that and so the key colours, the red ochre that is often ...

MA: That is right, the red ochre.

MG: So you think as well that the German flag ...

MA: Yes. And I think if you did some research on the German flag and have a look at its origins and what the colours mean, I think you will find there are some similarities.

MG: I interviewed Gary Foley recently and he was saying when he was in Germany - this is just like an aside - he was saying that the Aboriginal flag was very popular in Germany.

MA: Yes, it is. I'm married to a German now. I've been married now for 14 years to a German.

MG: Do you recall when you first saw Harold's Aboriginal flag?

MA: Yes, we had a demonstration down in Adelaide and we marched the streets and that's when I first saw that flag. That was late 1971. The very first time I ever saw that.

MG: Was that the first time the flag was ...

MA: Yes.

MG: The very first time you were there?

MA: Yeah. There was a street march in Adelaide and a couple of us went across from New South Wales and that was the very first time we ever saw that flag flying and we'd never seen it before in our lives.

MG: Had you met Harold before?

MA: No, never.

MG: What did you think when you saw the flag?

MA: Well, we associated with it immediately because this is the first time we've ever seen someone design a flag. This is pre-1972, the Aboriginal Embassy.

MG: Did you go and speak to Harold?

MA: No, we didn't. We just thought: that's a good idea. And that was it.

MG: Can you paint a picture of that day, what happened, what was it like?

MA: It was just one of those radical days of land rights now. What do we want? Land rights now. What have we got? Fuck all. And all that sort of stuff. Other than that it was just wanting to change the world and wanted our rightful place and we wanted things back and we were after that. In terms of symbolism, flags meant nothing to us at that time because it's a strange thing, but now we understand heraldic law, what flags mean, so it's a little bit different. Then as we say: hang on a minute, we had these things well before white people because we had them in dendroglyphs, we had them on designs, we had sand designs. We did these colours.

MG: So all those motif, cultural Aboriginal motifs, you see those as flag-like?

MA: Absolutely. Absolutely. Because when you look at the symbolism, when you go back through the feudal and medieval times and you look at these people how they associate themselves with country, then you begin to understand and appreciate what that symbolism means and why these kings and lords and knights and different people of different countries and clans, why they put their - what do they call them - bloody standards up and why they flew their standards, because it identified who they were, where they were from, etcetera, etcetera. Of course, we on the other hand we had the same thing

before that ever came into place, but we just didn't understand how it was used.

MG: So the dendroglyphs ...

MA: The dendroglyphs of the trees.

MG: Is that a flag-like ...

MA: Absolutely, it tells us a story, it gives us our totems, it's a symbol of our totems, we use those patterns. Colours just don't necessarily mean anything, it's the pattern that counts, not the colours. And so we can use any colour, pick any colour that we want, but it's to do more with those dendroglyphs that tell our stories and it's the same as those desert paintings that tell their stories. That's heraldic law and, of course, what I understand of heraldic law now but predates common law and common law came from heraldic law.

MG: Very interesting. In the contribution to the book the Aboriginal Tent Embassy: Sovereignty, Black Power, Land Rights and the State John Maynard details how you created a version of a Pan-African flag which you took to the Tent Embassy.

MA: I didn't take it there actually.

MG: What motivated you to create your version of the Pan-African flag and to take it to the embassy?

MA: It was interesting because we had a flag that was made up by an Aboriginal fellow down in Nowra and that was a black one with a sort of an ochre colour brown.

MG: Is that the one with the four spears?

MA: The one with the one spearhead and it's a symbol for us, that spearhead, that multi-pronged spearhead.

MG: Is that the one on the front of the book?

MA: Yeah. And, of course, the other one is the Nowra flag, which is consistent also to Northern Territory and the symbolism for people sitting around talking. But

the spearhead was talking about trouble, talking about war, talking about a conflict, and the people were sitting around it; that's what that flag symbolises or the first one that flew at the Embassy. And then all of a sudden I'm sitting there and out of the blue I had this bit of an epiphany and I thought: okay, we've sent delegations over to the Pan-African conference in the United States - Sol Blair, Patrick Kruger, Bruce McInnis and the likes - and they went over and represented the Black Power Movement and they went to Atlantic Georgia to that meeting and, of course, we were connecting, we had this empathy and association with what was happening in America at the time in terms of the Black Movement for civil rights and human rights and civil liberties. It was quite interesting, I remember then going back to a fellow called Baldwin - what was the man's name, he was a writer, an African-American writer, Baldwin. Anyway, my English teacher in high school, when I was in my final year in high school, gave it to me to read and said: I think you might find this interesting. So I read this book by this Baldwin fellow, African-American, and then when I left I came down to Sydney and we were at the Foundation for Aboriginal Affairs down here with all the young people gathered there, etcetera, with Charles Perkins when he was the manager there, and there was another fellow called Chicka Dickson, one of their (indistinct) and on the Board of Directors, and Chicka was a unionist, a radical unionist, he was a brilliant man, I absolutely adored that man. He became one of my mentors and I learnt a hell of a lot from that man. We were sitting down there one day and then he said to me: Michael, what we've got to do is we've got to start getting some of those African-American entertainers to come out here at the Chevron Hilton and down at the Whiskey A Go Go and down at the Chevron, Checkers Nightclub. We need to get some of those African Americans and see if they will come down and do some free performances for us. It just so happened that there was a group called the Checkmates Limited, Bobby Stevens and the Checkmates Limited, out here from the USA playing up at the Chevron Hilton there at the Hilton Hotel. I went up to one of these guys up there and I said: would you be prepared to come down and meet all the blacks down there? They came down one evening when they were off and they looked and they said: we're here for another week, we'll come down and we'll do a performance for you guys. Wonderful. I

sat down with this fellow called Bobby Stevens, the lead singer, and I was talking about the Black Power Movement and young people and what we were doing. He said: well, you know, you've got to think about this, what we're doing. And he pulled out a book, he had this book, and I saw this flag there and I asked him about the flag. I said: what is that flag? He said: that's the Pan-African flag. That's connects us, the diaspora, Africa, slaves from around the world, we connect with that, getting back to country, etcetera, and it's an international flag of connecting of the black liberation movement around the world. So they were talking about it way back in the 70s. What was that man's name who ...

MG: Marcus Garvey?

MA: Marcus Garvey first sort of touted all of this and promoted all this. I'm sitting down at the embassy one day and I thought: shit, we need to connect this movement to the rest of the world, to the black movement, so we developed this affinity and we have that association. I went and I bought the material and I bought some needle and cotton and I went back to the embassy and when I was bored I bloody sewed this flag together.

MG: So you sewed it by hand?

Laughter.

MA: I sewed it by hand and I flew it and I thought this is a symbolism of our association with this worldwide movement of black liberation around the world. We were black people in the land, the only difference was that we owned the country, we were the original inhabitants. That's how that flag got into existence. Nobody took notice of it really. They all saw it flying there but they never understood the significance. And nobody bothered to ask me about it.

MG: With your version, you got the colours in a difficult order, as described by ...

MA: I only saw it in the bloody magazine once, in a book, when Bobby Stevens is entertaining in his motel room, we were sitting there talking. I didn't care about whether or not it was in order, the fact is it was red, black and green.



MG: It's interesting that you got the red and the black in the same order as Harold's flag but it's in a different order.

MA: Yeah, that's right. I know that now, and I learnt that later, but we were in Australia, who was going to tell any difference?

Laughter

But the thing is the intent was there and everybody knew what was happening there so they see that red, green and black and just by looking at the colour we understood that there was an international association there.

MG: Can you speak about Marcus Garvey's influence on Aboriginal activism in Australia?

MA: I really can't say much about that at all, other than to say that when I met Bobby Stevens I sort of started reading some of his stuff. I stopped reading a lot of American paperwork and books because we had a very different struggle and our struggle was more akin to that of the Native Americans as opposed to African-Americans. The human rights and civil liberties stuff and freedom of movement and all that sort of stuff, yes, we had an association with black Americans and in terms of our association with the land and the struggle with the Native American Indians, that's a very different one altogether.

MG: Is it civil rights as opposed to land rights?

MA: That's correct, yeah. We were combining both, that's what we were doing.

MG: Gary Foley argues that Marcus Garvey's influence on your black power generation of Aboriginal activists was indirect.

MA: I agree with him on that; that is exactly right.

MG: He says that Marcus Garvey influenced a generation before yours, people like John Maynard's grandfather, Frank Maynard, who in turn shaped activism of your generation.

MA: I really can't comment about that, other than the fact that I know that the old Aboriginal Progress Association, which was around this time for (indistinct) etcetera, they were moving in those circles as well - human rights and fundamental freedoms - and most of that was coming out of churches, most of

that was being influenced by churches, and so I really can't say how much it influenced other people but I know that it certainly didn't influence me because I came from a little town called Brewarrina and we did very little reading. All I knew was that we wanted our land back and we were fighting these bastards because of racial discrimination in this country and we wanted to be free from those mission managers.

MG: What, if anything, do whitefellas not understand about the Aboriginal flag's significance for Aboriginal people?

MA: Quite honestly, I think a lot of white people now understand the flag. I think back then a lot of people were confused about what it represented, what it was all about. My disappointed now is the fact that it's now a registered flag according to Australian law. We don't own it anymore.

MG: It's a flag of Australia.

MA: It's a flag of Australia, it's not ours, so it's not a liberation flag anymore.

MG: You think that it's lost some of its meaning and power?

MA: From a revolutionary point of view, yes. However, one thing that the Australians have done in making this flag part of national psyche, what it's done is it's now showing to the world that the Australian government now recognises joint sovereignty over a nation.

MG: Pretty significant.

MA: Absolutely. And people do not understand the power of that. Unfortunately, we have to tell our people what the significance of that representation is. Our people haven't exercised that yet because they don't understand it. Just like we didn't understand the significance of our artwork.

MG: It's a really major shift, isn't it, because on just about every public building in Australia now you have those flags.

MA: That's correct. That denotes the joint sovereignty, whether you like it or not.

MG: Can you talk a little bit more about how the flag was first perceived back in the early 1970s?

MA: When they first brought it to the Aboriginal Embassy and we started flying it, it was good because we had colours to fly for the first time. We never had any. Just voices and chants, etcetera, someone walking along with clap sticks and so on, maybe a spear or so painted up, people painted their bodies in those demonstrations, but other than that this was the first time we ever showed any styles or standards that signified a difference and to fly the flag made it look pretty. We didn't understand the significance of it at the time. We do now.

MG: So it was more significant than you realised?

MA: Yes, that's right. Yes.

MG: In my research I've been unable to uncover many media images of the Aboriginal flag at the Tent Embassy.

MA: There was none. It was never used at the Tent Embassy.

MG: I have found one image.

MA: No, no. I will tell you when that embassy was there, it was in July. It was when they attacked the embassy and it was, I think, the most flags were flown at the Aboriginal Embassy at that time was that last march that we had.

MG: And Harold's flag was there?

MA: And Harold's flag was there.

MG: Just at the very end?

MA: It was at the very end. It was never used at any other demonstration.

MG: Just the very last one.

MA: It was the very last one in July.

MG: Do you know who brought it in July?

MA: The Adelaide mob brought it up. They had a bus full of Aboriginal people from Adelaide and they brought it up with them.

MG: Can you mention some names of people?

MA: I've got no idea who they were. There was just a bus load of people there were just so many people there. I really can't say.

MG: How did Harold Thomas's flag come to replace the other flags that were flown at the Aboriginal Embassy?

MA: I think everybody was taken by the colours, they were pretty stark, they were pretty much there, and the other flags were just sew-ons, they were little short ones, they were not the regular standard size flags, and to me to this day I'm very disappointed we never, ever got that flag made into a proper flag, the original one that flew over the embassy, designed by an Aboriginal fellow, and I don't even know who it was but it was brought up from Nowra, an Aboriginal fellow at Nowra designed that flag, bought it up, and then we hung it and I'm very disappointed that we never, ever got a proper flag made of that from that and of that and that we never used that because that's the Aboriginal Embassy flag. Harold Thomas's flag was not the Embassy flag at all.

MG: Because I had assumed that the Tent Embassy was like the springboard for Harold's flag because there was so much media attention there and then other people all around Australia saw the flag from there but you're saying it came later?

MA: It came later. On the last march. That's when it came.

MG: So the flag's main days, it's become the official flag of Aboriginal people, but how did that happen?

MA: I think everybody associated with it because it was used in every land rights march and so it became the symbol of land rights, it became the symbol of land rights, and it wasn't the fact that it was a standard of any group or tribe, it became known as the land rights flag, and that's what it symbolised for us.

MG: But there was never a vote, a meeting of Elders to discuss it?

MA: No, no, people just accepted it. We do things by consent, we're not like white fellows; if you like it we'll accept it. Don't like it, piss it off, don't bring it here anymore.

MG: Gary Foley played a role in sorts because there's an article in February 1972 by some a South African journalist working for the Daily Mirror and it was all about different revolutionary young people and as part of that article about Gary Foley's ideas, a picture of the Aboriginal flag was reproduced in the paper. Gary said that that's the first time it was reproduced in some sort of publication like that, and he was very keen for that to happen because he thought it was a great flag and he wanted it to get currency.

MA: Like I say, the flag never turned up in New South Wales until July 1972. Gary popularised it and bringing it forward to February of 1972 or any time before that, it wasn't there. It was just a rewrite of history according to Gary Foley.

MG: Does the Aboriginal flag challenge the culture of assimilation?

MA: Absolutely because it sets us up as a distinct people who have standards of our own. This one, like I say, we must always remember that it was a land rights flag, it was not the symbol of all of Aboriginal Australia. We use it merely to identify a common purpose and the common purpose is land rights and it's now advanced to sovereignty, but the sovereignty argument now is stimulating the minds of a lot of people and they're designing their own flags.

MG: So many Aboriginal language groups are designing their own flags?

MA: Are designing their own flags, yeah.

MG: Can you talk a little bit more about how the Aboriginal flag challenges the culture of assimilation?

MA: The flag?

MG: All of these flags.

MA: All the flags, we're starting to go back to the ancient way of identifying who we are and now more people understand what the significance of our flags and symbolism of that kind and more and more people are starting to turn to that to

show who they are and where they come from so when we see that flag we know that flag comes from a Euahlayi nation, or we know that comes from Gumilaroi we know that comes from the Gurindji, or something like that. So when they show those colours, when they show those patterns, we know exactly where they come from, just as they did in England when they saw the standards fly.

MG: So it's Aboriginal people appropriating a universally accepted ...

MA: But we've got to remember our people didn't understand the symbolism of our dendroglyphs and our patterns on the ground thousands of years before white people started even designing their own flags and their standards. We were doing that on the ground and we were doing that on trees and rock carvings all over this country without realising the significance of them and so we were way in advance of those people so when we went in our people's country we saw a pattern and knew exactly who they were and what they were. We never, ever used them to fly when we travelled, that's the difference.

MG: Do you think these flags have been an important tool in challenging assimilation?

MA: In modern day, yes. In modern day they were representative, and they will grow and have a greater significance.

MG: Can you talk more broadly about the social cultural legacy of more than 70 years of formal assimilation policies?

MA: Assimilation policies. We're living in a period now which shows the net result of that and the trauma that's been caused within our communities and the dysfunctionality that occurred there and the fact that that assimilation policy has removed people and separated people from culture. What we have to do is we have to truly understand the significance and nature of our disadvantages that exist now as a consequence of those horrible bloody policies that existed and so what we see now are people trying to find their families, people being separated from families, so what we have basically is about 30 per cent of our population or more who are still trying to find their way home and acquire some association with their families and connection to their country but some

people are being rejected as well and so there's this mass effort now by people to try and connect back to country and connect back to families and there's a lot of pain, there's a lot of hurt there.

In some cases people are being rejected as well and they want to be accepted back into their clan group. So we have this void now, we have these people living in a void, they live in purgatory, and of course they have to live with that and they have to try and find their way home somehow. These people live on the outskirts or on the fringes of western society. Others have accepted it and said: okay, we have been rejected by our mob and so we go within it but we are proud of our Aboriginal heritage. Even though they may not be able to connect to any particular part so genetically they have a proud history of their association. Of course, in part I guess, in maybe 10 per cent of the population they have succeeded and they are living in a white community as whites but proudly boasting their Aboriginality, their Aboriginal background, whilst on the other side of the coin you have people who are torn and live in cities or in towns who have been rejected and don't know how to find their way home and these people are living in purgatory and it's hurting them.

Then you have the others who live in our communities on our own and on our lands and have a clear identification of who we are but a lot of us are still - I'd say about 60 per cent of that group have lost their cultural practices, their ceremonial practices, totemic ties to country, and they're now searching to get back there. And these are the people who are the in-between people, who don't understand exactly where they fit in with western society, don't understand where they fit in Aboriginal society. Then, of course, you have the people who still have very strong connections to their cultural ties, still live on country, still have access to country, still do ceremonies and all that. And the government exacerbates these problems by suggesting that they're the real Aborigines, they're the tribal Aborigines, so they're the only ones who count really. By saying that the government doesn't realise how much pain and hurt and how they exacerbate that pain and hurt and trauma that the people have experienced.

Of course, we've always got to remember this trauma and this dysfunctionality is not about choosing; we preferred not to have been interfered with like the way the government did, so our spiritual and emotional

well-being has been totally disrupted and disturbed by government policies and people are having to live with that now. Unfortunately the suicide rates are astronomical now amongst young people because they don't know who they are, they don't know where they fit and what they're going to do, they don't see the leadership there in Aboriginal communities and it's sad. Very sad.

MG: So the formal policies and assimilation are no longer in place but the legacy ...

MA: Bull shit. We have a 1969 parliamentary, a strictly confidential briefing paper that fell off the back of a truck. In 1969, after the referendum the Federal Cabinet of Australia, under the leadership of a fellow by the name of Harold Holt, said: what are we supposed to do now that we have this massive overwhelming vote to be able to do something for Aborigines from the Commonwealth level considering the success of the referendum? We are expected to do something. And we have this document where a bloke by the name of Bunting, who was the Parliamentary Secretary at the time, completed a brief to the Cabinet of Australia and they got a bipartisan agreement on it and they agreed in parliament that we know that it may take generations to achieve but we must maintain the policy of assimilation.

MG: Do you think in 2014 ...

MA: Absolutely. All the self-determining organisations and efforts that we manage to get and succeed with in the 1970s in early 80s are now gone. The first 12 months of John Howard's leadership they closed down 440 Aboriginal organisations throughout the country, and they continued to do that one by one by closing down all the organisations. They shut down housing companies, they're shutting down medical services, they're shutting down all different types of independent organisational infrastructure and community service projects that ever got in the way. Now they're all run by church groups, St Vincent's de Paul, Salvation Army, Red Cross, and they're pouring money and therefore the delivery of services to Aboriginal people so the policy of assimilation is that we're going to mainstream it all, and there will be no organisations specifically for Aboriginal people. They're doing it and they're doing it very successfully.



MG: Are these cultural assimilations intrinsically racist?

MA: Absolutely. Absolutely.

MG: Is assimilation akin to cultural genocide?

MA: Assimilation is genocide. Not only cultural genocide but it's also in terms of the people's spiritual and mental well-being, our own being is being challenged, our identity has been ripped away from us right in front. Most people would say that these type of officials would stab you in the back, here they are they're developing policy behind our backs and stabbing us in the chest. They're so blasé, they're so blatant about what they're doing, they really don't give a damn because they're saying: if you black fellows can get somebody else, good on you. We're coming after you and we're going to destroy you. You either are going to live our way in this country or no way at all. We don't care if you kill yourselves. Hang yourselves all you want to. And we will build more prisons to lock you bastards up. You want to carry on a civil disobedience program, we'll deal with you. Okay, the Royal Commission into Deaths in Custody said it's inappropriate to relocate and gaol people far from their homes. So what are they doing? They're building a prison next to them. That's how blunt these people are.

MG: That's what they did in Wellington.

MA: Yeah. That's how ruthless these bastards are.

MG: To your mind does the symbolic premise of the Aboriginal flag design repudiate British Crown Sovereignty and the doctrine of terra nullius?

MA: In a nutshell, yes; absolutely. And these fools fly it now as a flag of Australia and our people still don't know how to take a political advantage of that because they don't understand its symbolism and the power of it.

MG: When I interviewed Gary Foley he talked about how you go into a prison now and it's the prison officials who are putting the flag up.

MA: Yeah.

MG: And for Gary that demonstrated how the flag has lost any meaning and power.

MA: Yeah, I agree. That's true. That's why I say on the one hand there is an absolute stark and very dangerous precedent that has been set and also it's created an opportunity for us to assert our sovereignty but we don't know how to do that. On the other hand, by them putting it up over prisons and other places is also an absolute bloody insult to us and it's a smack in the face of two things going on here. One is to be proud, one is to be kicked in the guts.

MG: How could Aboriginal people use it more effectively, the Aboriginal flag?

MA: We need to teach the people more about understanding what sovereignty is and what the flag means and what standards mean and how important those things are in the western world and how they are viewed in the legal world, in that western world. When our people realise that, Australia has got something to be worried about.

MG: Can you talk about what Aboriginal sovereignty means to you?

MA: Aboriginal sovereignty means to me the absolute exercise and control over my own people under my law and custom on my land within my territories and also to have the freedom to be able to develop relationships and to use my land and all my possessions on my land to develop resources and economic sustainability for my people according to our law and also the right to experiment and come into a modern world where we might want to use our traditional medicines and bring them into the modern world and have a look at how we can use them. There's a multitude of things and also there is great challenges there for us and I think that not only that we have native fruit, native vegetables in this country that we could capitalise on and develop an industry but we don't have the resources, we don't have those capacities. The fact that the Queen owns the trees and the grass and all that sort of stuff and the plants and the animals certainly creates a little bit of a problem for us.

MG: Which single activist action, in your mind, has been the most effective in communicating and advocating Indigenous concerns such as land rights, sovereignty and self-determination?

MA: For me it was when I went home after 1972 and I was working in the cotton fields and having Christmas in, I was living in a little tent in the cotton fields

and having Christmas in, I was living in a little tent in (indistinct), on an Aboriginal Reserve, we were cotton chipping and then after Christmas we were walking down the street and an old woman, old Mrs Hinch, old Auntie Dorrie Hinch, come up to me and said: Mike, you Black powerful? And I said: yeah. She said: we work here slaving our guts out there, getting sprayed with all that poison, and we work from sun up to sun down for \$8.00 a day. That is 80 cents an hour. Can you help us get higher wages? I said: well, it's a possibility. And she said: what do we have to do? And I said: well, we have to do what the white men do, go on strike, stop work. And she said: will you lead us? And I said: we need to call all the people together. From that moment on it took me three and a half weeks to coordinate a massive strike in the cotton fields of something like two and a half thousand people, and white people joined us, the white workers as well joined us. Within three and a half weeks from the time we started Paul Cole and Sol Blair came up, because they were members of the Black Power Movement, they come up and I asked them what they were doing and they said: well, brother, you know, we're brothers in arms, how can we help? I said: go back to Sydney and get me into the arbitration court as possible as possible. And they did, and it took them a week to get me into the arbitration court. We came down here and we whipped them and we won. It was great. It was so great, absolutely. We walked in there with a wage of 80 cents, 85 cents an hour maximum, per hour, we walked out of there immediately and effective as of that date \$5.25 an hour.

MG: Pretty impressive.

MA: That was what you call people power in the communities, a belief, and they did it.

MG: So you've just come back from the Tent Embassy but that strike is more significant for you?

MA: Yeah. Because it was people, it was people taking action on their country and it was through their efforts that they achieved something, and they shifted this whole world and they made significant gains well beyond any expectation that they ever had. They thought, okay, we'll give it a try. But it proved to them people power can do a lot of things, and that's when it put belief into them that

we can do whatever we want. Unfortunately, we don't have those things happening out there now and we haven't had them enough. A lot of them became very complacent because we won a lot of things in terms of rights, a lot of benefits, and we shifted things and we were developing these self-determining programs and a lot of the people became complacent and then the government realised, okay, let's give these people with a bit of acknowledge, let's give them a job, let's put them into these positions, and then we split the community. We want to promote this, we get them black fellows there who don't want it and we promote this over here. So you get this split dividing the community so the more money they put in our community, the greater division they create. They knew that. Very smart.

MG: The design of Harold Thomas's Aboriginal flag predates the setting up of the Aboriginal Tent Embassy by more than six months. Do you think the flag's long-term significance rivals that of the Tent Embassy?

MA: Without a doubt. Without a doubt.

MG: The flag does?

MA: The flag does. Our disappointment now is that the white man owns it, not us. But we can turn that around, like I said.

MG: In your opinion you're saying that the Aboriginal flag has been more effective than the Tent Embassy in communicating advancing Indigenous concerns such as land rights, sovereignty and self-determination?

MA: When you put it like that, not really. The flag symbolises that Australia has a black history. Whilst the embassy, in its present form, its silence is deafening and it pains the Australian government to know it sits there because it reminds them of unfinished business.

MG: So they're two very different things?

MA: Absolutely. Very different. Very different indeed.

MG: Do you think the Tent Embassy still has power and meaning?

MA: Oh, yeah. Its silence is deafening. It's a pain in the arse for them every time. They can't stand it. They would love to move it while ever on the line they will never move it.

MG: 40 years on when I read about it, it seems like a really radical gesture that was shocking. I imagine it sent shock waves throughout Australia?

MA: Throughout the world. The ripple effect went right around the world. I was disappointed actually when we had the 40th anniversary to read Gary Foley's and Gary Williams' comment about why they didn't go down with us and they both agreed that they thought that we'd go down there and within 24 hours we would be arrested, put in gaol and that was the end of it. That's why they didn't come down. I thought: you cowards. That's why you didn't want to go down there, you were frightened of being arrested? Anyway, the rest is history.

MG: It was amazing good fortune you had in that little loophole that you wouldn't have been able to be removed from.

MA: Well, you never know until you try. And we did it. The rest is history.

MG: At the 1994 Commonwealth Games in Victoria, Canada and again at the Sydney Olympic games, Cathy Freeman famously flew both the Aboriginal and the Australian flags. Would you agree that these were pivotal movements in race relations in Australia? How did you read those events?

MA: I think it shocked a lot of Australians to see her with the Aboriginal flag but then it was a proud moment for us as well. It had two - one a shocking experience from the whites because it really was a confrontational thing to do, and white Australia felt that. And, of course, on the other hand, black Australia was very proud and I think that Australia needs to have a lot more shocks like that.

MG: Cathy Freeman's action, to your mind, was an effective form of activism?

MA: Yes, it was; it was brilliant actually. I think it was brilliant. I think the fact that she flew the colours made everybody around the world look. Now we have those flags flying in all our city buildings so what Cathy Freeman did was to revolution, I guess, that flag on the international stage and make Australia sit

up and take notice, and make the world sit up and take notice that there is someone else here.

MG: The Aboriginal flag was made an official flag of Australia after 1994.

MA: That's correct, yes.

MG: I think it was 1995 or 1996.

MA: Yeah. Like I say, we have mixed feelings on that.

MG: Did you watch the races at the Commonwealth Games?

MA: I watched it all.

MG: Can you just paint a picture of what was it like? The Sydney Olympics, for example?

MA: I think it was more her, not the flag. For me and I think for a lot of other people it was a focus on her, not the flag. The flag was just the end result; it was just icing on the cake to show our standards. But we've got to remember that it represents land rights, that's what that flag is, land rights, not sovereignty. The flags that Aboriginal people are developing now by their own nations is sovereignty. So the land rights flag, that flag is land rights flag. That's what gave us, let's say, a common purpose in this country within Aboriginal Australia and that flag united Aboriginal people.

MG: That's a really important distinction you're making there. So you're saying that the Aboriginal flag is a lands rights flag?

MA: Yes, it is.

MG: And other nation-based flags they're more about sovereignty?

MA: That's correct. And they're emerging all over this country right now. People are building flags, creating their flags, designing flags because now they understand the symbolism, they understand the politics of that.

MG: For example, the most famous is the Torres Strait Islander flag.

MA: That's true, yes. They're starting to understand it.

MG: To your way of thinking, does the Aboriginal flag's activism go beyond issues relating to Aboriginal and non-Aboriginal Australia to represent broad multicultural tolerance? In other words, does the flag challenge Anglo Celtic hegemony?

MA: It does because the thing is we're in their faces. To see that flag flying there, I would really like for someone to survey white people along the streets and say: what do you think about the flag flying up there, the Aboriginal flag? I think it would be a very interesting study. For me, it's confrontationalist (indistinct) for those old bloody Anglo Saxon Protestants who came here and ripped the shit out of us. The Catholics might understand it more, but I think those old Anglo Saxon Protestants would be offended by it. A proper survey on the streets would really reveal a lot about what Australia feels about that flag flying on our official buildings.

MG: I guess my question is really for new immigrants who weren't Anglo Saxons?

MA: It would be confusing for them. It would be confusing for them because when you come to a country you expect, okay, there's your standards, there's the country's flag. That's what we all know. And now all of a sudden we're flying this one on all civic buildings, tell us about it? I don't think the multicultural society have been made too much aware of what it means and what it means for Australia and why Australia has made those laws and why Australia is flying those two flags. It plus be confusing.

MG: When I interviewed Gary Foley he was saying that in the bi-centenary protests in 1988 a lot of migrant communities, new arrivals, they were like: thank God someone is standing up to this kind of white Australia, one culture dominance.

MA: I agree with that, I agree with that, but the confusion is if they're flying those colours why don't we have Aboriginal people in parliament in their own right? Why don't we have Aboriginal people in all civic positions around this country? Why are they out there and we're designing programs to close the gap? Why is that? There is a lot of confusion as to that.

MG: So you haven't had conversations with Italians or Greeks or Lebanese showing solidarity ...

MA: A lot of them say - when we march the streets, when they see me on TV or when they see me out there and listening to me on radio, a lot of them see me on the streets and they say: that's good, it's about time you fellows get in their faces. As far as they're concerned we're not in their faces enough, we're not getting out there to tell Australia: hey, you fellows, we're here, we're coming to take some of the stuff back.

MG: Did you think you're in the dominant white culture's face and you're also giving space then for other ethnic communities to express their own cultures?

MA: That's a disappointment for us because they're able to do that when we can't, but the thing is we have a culture that is very different from the rest of the world. We are unique to the world. And so a lot of expression about culture cannot be publicly displayed in Sydney, Melbourne, Brisbane. Cannot. It's open country out there, there's stories out there and there are things we can talk about and there are things we can't talk about. The most important things to this country we can't talk about publicly. What I say to a lot of white people is: look, in this city you need to understand the symbolism of what's there and you need to understand the culture of Aboriginal people because it enhances this society. If they understood how to do it. People are going back, we have to go.

MG: It's been a great hour. Thank you very much.

MA: You're welcome.



**Who owns the *Aboriginal Flag*?  
Panel Discussion - Koori Radio**

**8 February 2017**

**Interviewee:** Lola Forester

**Panellists:** Nicole Watson; Maurice Ryan; Djon Mundine

***Introduction (read out by Lola Forester):***

Lola Forester            One of the great ironies of modern Australian race relations is that the *Aboriginal Flag* was made an official flag of Australia in 1995 by the Queen of England's representative, the then Governor-General of Australia, Bill Hayden.

The Governor-General was acting upon the instructions of the Keating Labour government, who in turn was acting on the advice of an advisory panel the government had appointed, made up of Indigenous and non-Indigenous eminent Australians. The Council for Aboriginal Reconciliation was created via Act of Parliament, initiated by the then Hawk Labour Government in 1991. Chaired by Pat Dobson, the Council presented *Going Forward: Social Justice for the First Australians* to Prime Minister Paul Keating in 1995. This document contained 78 recommendations covering a range of issues including access to land, protection of culture and heritage and the provision of adequate health, housing and other services. Recommendation 66 stated: "*The Council recommends that the Flag Act, 1953 be amended to give official recognition to the Aboriginal Flag and to the Torres Strait Islander flag.*" The Aboriginal and Torres Strait Islander Commission (ATSIC) (1990-2005) in their Social Justice compensation proposal made similar recommendations to the federal government

The decision to make the *Aboriginal Flag* an official flag of Australia was taken without a democratic mandate from either the general population, or Aboriginal Australians.

Thomas himself was not consulted about the decision. At the time of the proclamation Thomas was quoted in *The Australian*, describing the use of the *Aboriginal Flag* by the Australian government as ‘objectionable’ The proclamation, very deliberately in Australian law, does not impart the *Aboriginal Flag* with any powers, let alone powers or significance like those of the Australian flag, to symbolise the claim of Indigenous sovereignty over Australia for Indigenous peoples.

Thirteen years before these events, Thomas sought to assert his ownership of the *Aboriginal Flag* and earn substantial royalty fees for its use. He did so in correspondences with Aboriginal organisations that had incorporated his design into their logos, such as Aboriginal Hostels and the Aboriginal Development Commission - both non-for-profit, government owned organisations.

At the time both these organisations refused to pay the royalty fees to Thomas and he chose not to try and assert his rights through the copyright tribunal. Either in the 1980s in response to Thomas’ initial claims or in 1995, Charles Perkins meet with Thomas and advised him that he needed to prove his copyright of the *Aboriginal Flag* to the government using ‘white man’s legal system’ before he could make royalty claims on the flag. Thomas did establish a licencing agreement and fee for the reproduction of the *Aboriginal flag* with the flag manufacturing company *Flags World* in the mid-1980s, before the flag’s copyright registration.

The year following Governor-General Bill Hayden’s 1995 proclamation, Thomas filed an application to the Copyright Tribunal to assert his copyright ownership of the *Aboriginal Flag*. Thomas alleged that the Commonwealth had ‘authorised or permitted copies of the artistic work to be made for its own purposes as well as by others generally, particularly non-Aboriginal people’.

On 9 April 1997, based on the weight of circumstantial evidence, the Court declared Thomas author of the artistic work being the design, known as the

*Aboriginal Flag*, and declared that he was also the owner of the copyright subsisting in that artistic work. The Federal Court decision enabled Thomas to make a new application to the Copyright Tribunal to ‘determine the remuneration payable by the Federal Government in respect of its use of the flag’.. Thomas has since received royalty fees form the Australian government for the reproduction and use of the *Aboriginal Flag*.

Copyright registration of the *Aboriginal Flag* represented a significant rupture in its relations and meanings. As a result of the court case, the *Aboriginal Flag* became possibly the only flag the world over that represents a people that is owned by an individual.

Were it not for Thomas’ legal action, which he pursued at considerable personal effort, the *Aboriginal Flag* would be an official Flag of Australia, with no Aboriginal organisation or individual having jurisdiction over its use or meanings: a disastrous outcome for indigenous Australians.

Since 1997 Thomas has principally used his copyright powers to collect significant copyright revenue for the flag’s reproduction, sale and use. The *Aboriginal Flag* has come to represent a significant small business with many groups and individual involved in its reproduction and profit. To this end, he engages the services of lawyers who assert his royalty rights when needed.

Prior to proclamation and registration, the flag adorned Aboriginal people, places and institutions. Its status is now omnipresent across the shared Australian public domain. As a result of his decision to assert individual control over the flag through copyright registration, Thomas alone stands before the Australian government as gatekeeper to *Aboriginal Flag* use and meanings. By choice, chance and coincidence, Thomas has the power to lower and raise, or suspend the *Aboriginal Flag* at half-mast, or in whatever ways he sees fit.

Welcome to the program. Nicole's first book, *The Boundary*, won the 2009 David Unaipon Award, so welcome to the program, Nicole. And a fellow Queenslander. Also we've got on the line, we've got our dear brother up there in the Northern Territory, and he's a Gurindji man, the grandson of son Vincent Lingiari, and that's Maurice Ryan, and he is also the founder of the Australia's First Nation Party which was a party that federally registered with the Australian Electoral Commission in 2011 until 2015, when it failed to demonstrate evidence of their required 500 party members. But he's also been the former Chair of the Central Lands Council as well, and he's always been there fighting for the rights of Aboriginal peoples, not just in the Northern Territory but right across the many nations out there. We've got both of them here and, Maurie, you're on the line?

Maurice Ryan: Yes. Good morning, Lola. Good morning to your listeners.

LF: Good morning to you both. I just read out that statement in regards to the Aboriginal Flag research out by one of our deadly brothers out there, and I thought we would just start discussions and we've got Nicole Watson here in Sydney. Do you know Nicole?

MR: I might have met her; I don't know. Good morning, Nicole.

Nicole Watson: Good morning.

LF: She's down here - originally a Queenslander but has come down here. I wanted to ask both of you - maybe start with you, Maurie, what are your thoughts on the Australian government's registration of the Australian Flag as an official flag of Australia in 1995?

MR: Well, firstly, I must congratulate Harold Thomas for designing this flag. It represents Aboriginal people, and also to the people who did the Torres Strait Islander flag. Now this is very symbolic in its beginnings of the creation, like any other flag, but with this it does give pride to a lot of people of Aboriginal descent, so I reckon it's one of the greatest things to happen.

- LF: What about you, Nicole, what are your feelings on the Aboriginal Flag, because you come from another generation too?
- NW: I have great passion. Like so many Aboriginal people around Australia, I have great passion for this flag. For this flag it symbolises our resilience, every invasion day, horrific things are going on, some terribly decadent celebrations are going on around the country; you can see the Aboriginal Flag flying in every capital city, and for me there's one that it represents resilience.
- LF: Do you think it's a good idea that Harold Thomas actually holds the registration or the copyright to the registration of the Aboriginal Flag?
- NW: I am torn. I want to congratulate Mr Thomas for this incredible flag that he designed and the contributions that he has made, as any artist I think that he is entitled to make some remuneration for his work, but since he produced the flag for me it's difficult to isolate that piece of art from the activism that has gone with it. Generations of our people have marched with that flag, and for that reason I think that I have concerns that only one person gets to control its use. I think that all of us should have some say in how that flag is used, particularly when it is used by governments.
- LF: Also too, what do you think Maurie, out there? The flag was registered in 1997 and that was a time of the reconciliation convention that we had in Melbourne so it was really ironic that it came at a time when that conference came out and when all those recommendations from the reconciliation convention came out there and that's when Howard just refused to believe that there was a black arm band. So the thoughts there, your thoughts on the Aboriginal Flag that one person does hold the copyright to the flag?
- MR: Well, when it became registered, I thought that the power to do this was transferred over towards the Commonwealth, so the Commonwealth had the authority; this is what I was led to believe. But, fair enough we've got to look at the reason why Harold created this. It was created in Adelaide when people marched but most of the time I was down in Adelaide and people would just

march with white flags and other colours, you know, but this is a symbol of the struggle that we've had since 229 years ago, since Cook landed. Now, what did they do? They put a rag in the ground at Botany Bay and proclaimed all of what he saw, which was the blue hills that belonged to the Queen.

Now, I'm in favour of what [Anthony] Mundine is doing, I don't stand either for God save the Queen or anything else because she is not my queen. I respect the lady, but we have our own laws which have been so-called abolished when Cook said *Terra Nullius*, and this is what people fail to see, the history. Have a look at the history of this profession. I'm in favour also of putting Australia Day to another date but put it to the people, for the people to decide, black and white and any other colour and any other race and religion in this country. But, you know, I look at the flag when it's flown in Parliament House and everywhere else, at schools, it's there. And the same as the Torres Strait Islander, I'm proud to watch it.

LF: Okay, the Aboriginal flag, as you know, is the only flag in the world that represents a people that is owned by an individual. So many Aboriginal artists sell their art for profit. So is there an issue with Harold earning royalty fees from the use and sale of the Aboriginal Flag?

MR: Not to me it isn't. It's, you know, they use words as intellectual property. Mr Thomas designed this and, like anything else, there's a patent put on it and like ordinary motorcars, the engine, anything that's been invented, the person who invented it gets royalties. Well, why not? And it has meanings to people of the Indigenous race of this country, the red, the black and the yellow. So I don't see anything wrong in that. He designed it, why not take the credit and also royalties?

LF: What about you, Nicole?

MR: He gave permission for people to use. I don't see anything wrong there. Sorry to butt in there.

- LF: That's okay, Maurie. I'm just going back to Nicole and see what she feels about this flag is the only flag in the world that an individual owns the copyright to.
- NW: Like Maurie, I don't have any issue with Mr Thomas receiving royalties, like any other artist receives royalties for the exploitation of their work, particularly when those royalties are paid by governments and by corporations that use the flag for profit-making purposes. But I think that Aboriginal people need to have some involvement in discussions about the use of the flag, particularly when they're flown by parliaments that enact horrific laws that have terrible impacts on our people, like the Commonwealth Parliament when they gave us the Northern Territory Intervention Legislation, the most racist legislation arguably of the 20th Century, it was so destructive for our people and at the same time they fly the flag and I have issues with that, I think we need to have some debate about the appropriateness of that.
- LF: When I spoke to Harold, it was some time ago, and the question was put to him: have you considered de-registering the Aboriginal Flag as the official flag of Australia until first nations people of Australia have constitutional representation or a treaty.
- NW: Once again, I have problems with parliaments flying our flag, and I think that they're largely empty gestures; they look like they're doing something for us when in fact they're not. I would feel far more comfortable if our flags were not flown by Australian parliaments until we have some treaty in place that recognises our right to self-determination.
- MR: What happened, when the intervention was put in place, right, people don't understand a lot of things. I was one of the 10,000 people, because I was living in my community at Kalkaringi, when the intervention was put into place, right. Now, that was one of the most racist things I have ever, ever seen. There was 10,000 of us in the Northern Territory in remote communities, nowhere else, and it was there from 2007 to 2011. And who paid for it? That's the million dollar question. You know who paid for it? ABA [Aboriginals Benefit Account – provides one-off grant funding for proposals that are for the benefit

of *Aboriginal* people living in the Northern Territory]. Who got their grubby fingers into it? The Federal Government. The Federal Ministers. Federal Ministers at that time. Who was the Minister? Who was the Federal Minister?

NW: Mal Brough.

MR: The ABA is now under Prime Minister and Cabinet and they are dipping their fingers into that. Now this intervention was passed by every political party in federal parliament, bar the Greens. What does that say about this country? The racism. Right? We've got to martyr some sort of symbol. Look, some of the most recognised flags in the world - in Australia it's the Australian Flag. Plus the other flags of the seven states and territories. But you look at ISIS, you look at the Russian flag - hammer and sickle - and also the Union jack. The United States, you see that everywhere. And, you know, it's symbolic that we have our own because I say to you now and to your listeners that the Australian Government is illegal and fraudulent under our political laws of 60,000 years, which in my territory is called (indistinct) traditional law, culture law and customary law. This is all legal.

Until the Australian people come to grips with the political system of this country which was brought here, brought in by the first ship that's landed here, ships with the convicts and their laws was the laws created in 1215 on the banks of the Thames at Runnymede called the Magna Carta. Ours is older than that so what I'm saying to you now is everything is illegal and fraudulent and this country has been in denial, so has England, of us being here. They even tried to deny that the Stolen Generation existed. I'm one of them, and I'm nearly 70 years of age. So when is the truth going to come out? They're too scared because what they have got to do is repatriation to all Aboriginal or Torres Strait Islander people, the million of us with DNA bloodlines of 40,000 years.

LF: New South Wales has looked at that for the Stolen Generation and they are going to be compensating the Stolen Generation \$75,000 so there is movement. Tasmania, I think, was the first one. But we've got our other



brother, his electric bike he had to charge up before he got in here, and that's Djon Mundine. As a lot of people know him, he's a curator, writer and artist and activist. Djon, welcome to the program.

Djon Mundine: Hi.

LF: It's always the way, Mundene, Mundine. Which way? Because some people say Mundine, some people say Mundene.

DM: I answer to both. As I said, people call me many names.

LF: We're discussing the Aboriginal Flag and I've asked Nicole and I've asked Maurie on the line here what their thoughts about the Australian Government's registration of the Australian Flag as an official flag to Australia. What are your feelings there?

DM: Well, I think it's good that it enters the game in a way that there are rules about it has to be shown. It means, like I still hear people, local councils and that, who refuse to fly the flag and at every NAIDOC week, every year there's a big shit fight about some mayor somewhere or some red neck decides that we won't fly the flag, so I think that it's become an official flag is one move forward. But then I was listening to some of the discussion before about that with flags there are certain rules about when it's flown, when it isn't flown, when it's flown at half mast, and you how deal with it, the certain rules. I don't think anyone ever thinks about those rules at the moment. I don't think they even understand about the bloody flag that exists, the Australian flag, everyone has got it tattooed on their bum and whatever.

LF: Would you think that Harold Thomas could get the copyright on that if it's on their body because I know a lot of people put it on their arms. What do you think? Is it good that Harold Thomas holds the copyright for a flag that is only flag in the world that an individual upholds?

DM: I don't know whether it is the only flag but I just think that - I just thought, you know, if it was in my thing I would be a bit more magnanimous about maybe putting that money into a fund. I thought about Harold as an artist he has a right to the copyright of his artwork, and he might have money problems, and I thought well, I've got money problems. Show me a black fella that doesn't have money problems. So I can understand he wants to get some payment for his efforts but I thought there would be some of the way to be magnanimous about that that money goes into sort of trust fund or something for the benefit of a bigger thing.

However, I was also thinking about all the paraphernalia that go with the Royal family. Lots of countries have royal families and all the paraphernalia that goes with them - this is by Royal Doulton Pottery, etcetera, it's got their logo on it. So biscuits and jams and whatever by royal order. What gives them the bloody right to make money out of that, if that's the case? That's something that's not quite the same but I was thinking of that in a parallel situation. I can empathise with Harold in one way of an individual artist, remove Harold, just an individual artist getting money for their artwork, and especially an important once-in-a-lifetime historic artwork I can imagine that, but then I myself I would have been a bit more magnanimous about that because if it is going to be national, for the Aboriginal nation, if there is such a thing, to represent all Aboriginal people, that then it has to be bigger than one person saying I'm King Boom. That kind of thing.

LF: But it is interesting because when technology came out a lot of people were registering names, Domain names, so that when anybody popped up with a Domain name, if it was big companies or television station, people had to pay royalties to that person. I remember I had a French friend in Canada and she had like 200 and she kept on going with different Domain name in case someone popped up. There's a lot of people over there that were far more advanced with technology to know that once people started registering things, so he was lucky that that flag was registered where someone else could have actually claimed the name, the Aboriginal Flag.

- DM: Two things in copyright that I remember were the main thing as attribution, that you're attributed, that this is your artwork, and someone was having a go at me about is he going to pay money to the Germans because they use the same colours, the red, black and yellow. And I said: yeah, but that's a different thing, of course.
- LF: And Belgium.
- DM: And Belgium has the same colours and so on. So there is attribution. And the other part of that is fair treatment of the work so it doesn't end up on toilet paper or whatever, that kind of thing, a fair dealing with the thing that's made. It's got to have both of those, the two main principles of copyright, and I think it's just all open slather at the moment.
- LF: Maurie, I know within the Northern Territory a lot of the language groups up there actually have their own flags. But how do they feel about the main Aboriginal Flag that was created by Harold Thomas?
- MR: Well, a person who lives in a remote community, and I've lived in quite a number of them up in the Northern Territory, they look at that with pride. But when you talk about flags, like (indistinct) you use different colours. Now, nobody has a copyright on any colour. It would be ridiculous. Like the German flag, same colours as ours, the Aboriginal Flag. So, no, a lot of people identify with this but they also, a lot of our people, look at the Australian Flag, right, and in the Territory they look at the Territory Flag. We have the brown, the white and the black. Same colours that says that, you know, the Aboriginal race is black, white and brown and yellow. So, you know, it doesn't really matter but it's like we are saying, you know, Mr Mundine there, I knew him many years ago in Maningrida when he was working with the curatorship. Now he's seen a lot of this stuff too but we don't have a designated flag for our people. Our people look at the Aboriginal Flag and the Australian Flag. Going back to this, Harold designed this flag and I was lead to believe that he gave the right to Aboriginal people and organisations to use it. And that's what we all march under. NAIDOC, Australia Day.

LF: That was true, I heard that too, that he would allow Aboriginal organisations to use the flag but anyone else would have to pay royalties for the use of it. I don't know whether the Australian government that fly the flag over Canberra, and they fly it in many, many councils, whether those councils and other governments actually pay royalties to Harold Thomas for doing that or other organisations out there. Do you know at all, Nicole?

NW: I was very lucky before coming I got to read a chapter of the doctoral thesis that is going to be coming out soon by Mat Gallois, and he tells us the answer to that in his chapter. So the royalties that are paid by Australian governments for the use of the flag are actually collected by APRA and then paid to Harold Thomas.<sup>43</sup> And some Aboriginal organisations are also paying royalties. I understand that the Koori Mail pays a royalty for the use of the flag in their masthead.

DM: I think flying the flag is one thing, you put it on a flag pole outside a council or whatever, but that's different to actually having it on a letterhead or on a t-shirt that you then sell. That's what you pay the money for, for that use of that, and you deal with it in a fair way that's not demeaning or insulting to that thing. Just what Maurie was saying, I do remember in the 80s, Aboriginal flags, the Harold Thomas flag, came into circulation within Aboriginal communities in those remote communities, and it wasn't there before - well, it didn't exist, I guess in the 70s, before the 70s, but it actually then started to enter those remote communities and those people started to see that as their flag. And those three primary colours, the red, black and yellow, were taken on board as being that's our flag. So that was a really interesting development to see that. Before that it was seen that it was just radical people and uncompromising or people that were stupid, that Loony Left, or whatever,

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<sup>43</sup> It has not been possible to either confirm or deny that Thomas receives royalty fees from the Australian government. This statement has been removed from the related thesis, *The Aboriginal Flag* by Matthieu Gallois, and the statement has been corrected on the public record by Koori radio.

used that flag. But in the 80s, it came into the communities that I lived in and worked in and became more widespread.

LF: Thank you all for coming on. It's one of those subjects I think that some people might get a bit uneasy about because it's been something that's been out there for a long time but as, of course, declared Thomas was the author of the artistic work, being the design known as the Aboriginal Flag that was on 9 April back in 1997 but we know the flag was pretty prominent at the '88 big march here and it has been prominent everywhere that Aboriginal people understand and now we're seeing the flag in solidarity across the world - we're seeing it in Berlin; we're seeing it in London; we're seeing it in Hong Kong and there is these solidarity groups right throughout Turtle Island and through South America. I think Cathy Freeman, when she did run it in Canada at the games there it wasn't registered as a flag then but at the 2000 Olympics when she ran the 400 metres and run that she was able to grab both those flags and get recognition for it because then everyone would know that she was an Aboriginal person and we are the first people and I think should be recognised as that, as the oldest continuous culture, even though it's the red, black and yellow of the Germans and also of Belgium holds the red, black and yellow but it's in a different form to what it symbolises. The symbol is of the flag too, is something that's a lot stronger and for all those people out there that don't have an understanding what the Aboriginal flag is - explain it to me, Nicole? What do the colours mean?

NW: The black is for our people; the red is for the blood that has been shed in protecting this land and the yellow is for the sun.

LF: And then when people pass away we actually turn the flag upside down so that our people go back into the earth and reconnect as one. Maurie, thank you very much. Do you have any final words at all?

MR: No. Just thank you for giving me the chance to speak on behalf of other people in the Northern Territory. Thank you, John and the lady. I will meet you some day. And all the best.

DM: Maurie, I just want to say thank you for bringing up the whole thing of the intervention, it is the most amazing thing and I try to explain that when I travel overseas. In this country in 2000 whatever ...

MR: 2007.

DM: 2007, the Australian Army was sent in to Aboriginal communities and ... And people can be so hypocritical about talking about other dictatorships and illegal regimes, etcetera. They sent the Australian Army and Federal Police to take over our land.

LF: It's interesting that you talk about that because we've just heard that the Royal Commission into institutional sexual abuse where they have found for the last couple of decades over 2,000 within the Catholic Church that have been perpetrators and as people have been telling me yesterday, I've been out there yesterday, and they were saying: how come no one is talking about the perpetrators in the Catholic Church, which they've found over 2,000, and yet within the Northern Territory with the intervention of 2007 it was to do with pedophiles and yet there was no pedophiles found in the Northern Territory because of the Save the Children's Report that was conducted by Pat Anderson and what was the judge up there?

DM: Yeah, just slipped my mind.

LF: It's slipped my mind at the moment but also we've got to remember in 2004 too they brought the Squat Squad into Palm Island after a supposed riot after a man, one hour after he was arrested, was found dead and he never had a record. He had alcohol in him but there was no guns, there is no military out there on the island so from 2004 it's just been continuing, unfortunately, that Aboriginal people have been attacked and now we've got the basic card out there, the (?) card.

MR: Lola, it's Maurie. Just for one second. The Stolen Generation of the Northern Territory was under the Federal Government, the same as ACT.

LF: Because you're a Territory, you're not a state.

MR: That's right. And we will never get compensation or reparations for the wrong that's been done to us. Quickly, in England, they brought children out here. They've been compensated for the hurt and the damages done to us. I'm one of them, you know, and I bring this up all the time. Nothing has happened because they deny whatever happened to us and, you know, what about all those churches there were seven in the Northern Territory. Why aren't those people taken into court?

DM: Or why isn't the police or the Army occupying all their land?

LF: And we're seeing it more and more with, I suppose, with Native Title or Land Use agreements taken off because the government does - the understanding is that the Government can make recommendations that you couldn't be denied land, Native Title or Land Use agreements, so that's a big issue that we have at the moment in regards to Western Australia with the (?) case. The three of you, thank you Nicole Watson for coming on the program. To Djon, next time can you charge your bike up. Djon Mundine actually drives an electric bike so for those people that know him, it's a bit hard to imagine. But, Djon, welcome and thanks for coming in. And Maurie Ryan up there in the Northern Territory, a Guringji man, and you and your grandfather will go down in the history books as their largest strike and Vincent Lingiari up there, and I know that there is still people that still have memories and they still haven't been compensated for that as well, for the workers up there as part of your grandfather's ...

**Email from Balranald Shire Council**

**From:** Carolyn Holmes  
**Sent:** Friday, 20 January 2017 12:06 PM  
**To:** 'mgallois@hotmail.com'  
**Subject:** Aboriginal Flag Policy

Mathieu

In response to your email and conversation with our General Manager this morning. The following process was made in regards to the flying of Aboriginal Flag.

6<sup>th</sup> May 2011 we received a letter of request from Aboriginal Community Working Party

17<sup>th</sup> May 2011 a policy was made and went to council for adoption

19<sup>th</sup> July 2011 Council adopted the policy

20<sup>th</sup> December 2011 an amended policy was put to Council and adopted.

25<sup>th</sup> May 2011 ceremonies (coordinated by Balranald Community Working Party) was held to celebrate the raising of Aboriginal Flag at Council Chambers and the Australian Flag at Balranald Aboriginal Local Lands Council Office.

**Regards**

**Carol Holmes**

Executive Assistant

Balranald Shire Council

PO Box 120

BALRANALD NSW 2715

03 5020 1300

[cholmes@balranald.nsw.gov.au](mailto:cholmes@balranald.nsw.gov.au)



**Email from Department of the Prime Minister and Cabinet**

**From:** National Symbols <NationalSymbols@pmc.gov.au>  
**Sent:** Thursday, 14 April 2016 9:45 AM  
**To:** Mathieu Gallois; Kylie Taylor; Cerina, Ana Maria; National Symbols  
**Subject:** RE: Aboriginal flag and the high Court of Australia [SEC=UNCLASSIFIED]

UNCLASSIFIED

Good morning Mathieu

As you have been advised the Australian Aboriginal Flag and the Torres Strait Islander Flag are official flags of Australia that were proclaimed under section 5 of the *Flags Act 1953*. In respect to flag protocol, this implies it has a special position in the order of precedence and there are specific days in the year where the display of the Australian Aboriginal Flag is encouraged by this Department such as Reconciliation Week and NAIDOC week.

While the Department of the Prime Minister and Cabinet issues advice to Australian Government organisations on the special days for flying the Indigenous Flags, the flags may be flown at any time at the discretion of the organisation.

I trust that this information is of assistance.

Regards,

Michael

**Michael Parry** | *Commonwealth Flag Officer*  
*Honours, Symbols and Legal Policy Branch*  
*Government Division | Department of the Prime Minister and Cabinet*  
Ph (02)6271 5111  
Fax (02)6271 5662  
Email [nationalsymbols@pmc.gov.au](mailto:nationalsymbols@pmc.gov.au)

**Email from Megan Rocke Victorian Premier's office**

**From:** Megan Rocke <Megan.Rocke@parliament.vic.gov.au>  
**Sent:** Tuesday, 22 March 2016 3:52 PM  
**To:** 'Mathieu Gallois'  
**Subject:** RE: Aboriginal flag

Hi Mathieu,

Thanks for your patience with me in taking a while to get back to you. The Aboriginal flag has been flying permanently from the Victorian Parliament House since 15 September 2015. There are several links I can give you with more information:

Parliament House news story: <http://www.parliament.vic.gov.au/about/news/2770-aboriginal-flag-flying-forever-at-parliament>

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## Parliament of Victoria - Aboriginal Flag flying forever at ...

[www.parliament.vic.gov.au](http://www.parliament.vic.gov.au)

Tuesday, 15 September 2015 12:29  
The Australian Aboriginal Flag is flying permanently from the top of Victoria's Parliament House. Aboriginal elders, members of ...

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Press release from the Department of Premier and Cabinet:  
<http://www.premier.vic.gov.au/aboriginal-flag-to-fly-at-victorian-parliament/>

The flag had flown above Parliament House on many occasions, but it didn't become permanent until September 2015. It's a decision that was made by the Victorian Government, in particular the Premier's office. The change was initiated by the Greens, although I'm having trouble finding an article I can cite for that. However, I'm certain that Greens MP Ellen Sandell made public comments to the effect that she'd written to the Premier requesting that the flag be flown permanently at Parliament House.

As far as I'm aware, the flying of the flag at Parliament House carries no legal or constitutional implications.

I hope that was helpful. Let me know if you have any more questions.

Kind regards,

Megan Rocke

