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When sorry isn't good enough: Official remembrance and reconciliation in Australia

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Abstract

When compared with other reconciliation processes, Australian reconciliation and its acts of official remembrance have received relatively little academic attention, and yet the case raises many important questions for settler societies struggling to come to terms with past misdeeds and the burden of the past in the present. This article places Australian reconciliation in the political context of the campaign for a treaty between Indigenous peoples and the settler state that emerged in the 1980s, the institutionalization of common law Indigenous land rights during the 1990s, and the current 'intervention' in the Northern Territory. The nature and trajectory of these political events are at odds with two highly lauded official acts of remembrance made under the rubric of reconciliation, Paul Keating's Redfern Park speech in 1992, and Kevin Rudd's formal state apology in 2008. The article argues that such settler state acts of official remembrance and acknowledgement of past injustices, while far from devoid of value, are considerably diminished by the positively colonial, and inherently unjust, *contemporary* political context in which they were made.

Keywords

Apology, Australia, Indigenous peoples' rights, reconciliation, reparations, sovereignty

Introduction

The fields of transitional justice, reconciliation and memory studies are now well established areas of academic inquiry. Discussions often centre on institutional 'innovations' (Lederach, 1999) such as 'truth telling' commissions, victim hearings, perpetrator amnesty provisions and various forms of collective memory production. When grappling with issues such as truth, justice, vengeance and forgiveness, reconciliation processes often utilize a combination of symbolic measures – such as official apologies, commemoration memorials and the like – with more practical measures such as setting up truth commissions and reparations tribunals, in an attempt to repair societies torn apart by gross human rights violations and/or war.

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How exactly reconciliation is attempted varies, of course, depending on the context in question. There are important differences between the case of Rwanda and the former Yugoslavia; but since they both suffered acute ruptures over relatively short timeframes, they have perhaps more in common than many less-spectacular but more pervasive structured conflicts between Indigenous peoples and settler states in countries such as Australia, Canada, New Zealand and the USA. In these countries any notion of 'reconciliation' that seeks to build a common identity is deeply problematic given that many Indigenous peoples therein have strongly defended their alterity in the face of hundreds of years of colonization. The 're' in reconciliation seems inappropriate in these contexts as the two sides were never 'together' as such (Short, 2003).

Australia's reconciliation process is of particular interest due to the nature of 'settlement', the origins of the process itself and the official, albeit belated, apology from a prime minister. Unlike the other settler colonial contexts above, in Australia no treaties with Indigenous peoples were signed by the British colonies in the late 18th or 19th centuries or subsequently on the foundation of the Australian Commonwealth in 1901, a fact that challenges the legitimacy of the settler state itself. It is not surprising then that Indigenous political mobilization eventually sought to campaign for a treaty or treaties.

Australian reconciliation

In April 1979, the National Aboriginal Conference, a government-established forum for the expression of Aboriginal views, instigated a concerted campaign for a treaty to recognize and restore Aboriginal rights to land and political autonomy, and compensate for the loss and damage to traditional lands and way of life, while protecting Aboriginal identity, languages, law and culture. The term 'treaty' elicited strong opposition from prominent politicians concerned that it implied an agreement between two 'sovereign nations'. This was problematic as, from the time of conquest up to the present, Aboriginal people have never officially been regarded as possessing nationhood or sovereignty. But as Roediger and Wertsch (2008: 13) write, 'national narratives of one sort or another help organise historical memories of a people' and since the 19th century the dominant nationalist settler 'narrative template' has been the 'one nation and one state, in one territory' formula of nationhood (Moran, 1998). Legally and culturally the settler state constituted itself as the only sovereign nation within the territory, a situation that acted as a bar to meaningful dialogue on the notion of a treaty. In 1988, John Howard, the then opposition leader (and later prime minister), suggested that 'it is an absurd proposition that a nation should make a treaty with some of its own citizens' (Howard, 1988: 6).

Such criticism gradually led government ministers to use the equivocal, more open-ended terms 'compact' or 'agreement,' a dilution signalling the political demise of the treaty campaign. From the treaty debates emerged a new policy direction fuelled by the influential 1983 Senate Standing Committee report, which dismissed the treaty idea and concluded that societal 'attitudes' lay at the heart of the 'Aboriginal problem' (Short, 2008). In 1988, the government reneged on a prior commitment to a treaty, suggesting that non-Indigenous Australians needed to be 'educated' about the Aboriginal problem before they would be ready for one.

In early ministerial discussions on the reconciliation initiative, the Federal Minister for Aboriginal and Torres Strait Islander Affairs Robert Tickner suggested that 'there can be no reconciliation without justice' (2001: 29). But the need for cross-party consensus made sure that 'education' for the non-Indigenous rather than 'justice' for the Indigenous emerged as the dominant focus of the process. And yet the preamble to the enabling legislation, the Council for Aboriginal Reconciliation Act (CARA) 1991, outlined the rationale for the process, clearly identifying the

injustice that necessitated a formal reconciliation process – the original act of colonial dispossession and its legacy of Aboriginal social and political disadvantage – but it did not commit to any specific measures to address these issues. All that remained of the treaty idea was the vague aspiration to produce a 'document of reconciliation' by the end of the ten-year process.

The Council adopted a formal equality approach that sought to balance Indigenous and non-Indigenous interests and that contrasted starkly with the 'victim group' oriented treaty campaign of the late 1980s from which the reconciliation process emerged. From the outset Council rhetoric had a broad focus that sought to include the 'wider society' wherever possible (Short, 2008: 110). Unlike other reconciliation processes, such as the Truth and Reconciliation Commission of South Africa, official Australian reconciliation focused less on the needs of the victims and more on the educational needs of non-Indigenous Australians. Perversely for a top-down initiative, instigated without serious consultation with Indigenous peoples, the Council envisioned its process as 'bottom up' where significant change would filter through existing structures once non-Indigenous society had been sufficiently educated in Indigenous issues. Again, this was far from the concrete practical measures demanded by the Treaty movement, which included land rights, self-determination, restitution, compensation and acknowledgment of the harms of colonization and their legacy.

On 10 December 1992 the Prime Minister, Paul Keating, delivered a speech to mark the Australian launch of the United Nations International Year of the World's Indigenous People in Redfern Park. The speech has subsequently become known as the Redfern Park speech (reproduced in Keating, 2000). It was the first significant national governmental act of official remembrance during the reconciliation era. Many Indigenous people felt that the speech, combined with a recent land rights victory in the courts (the *Mabo* case),[1] provided valuable acknowledgement of colonial injustice and provided hope the government would legislate measures to facilitate return of Indigenous lands to Indigenous control. To his credit Keating highlighted the incongruous nature of contemporary Australia:

> the starting point might be to recognise that the problem starts with us non-Aboriginal Australians. It begins, I think, with that act of recognition, that it was we who did the dispossessing, we took the traditional lands and smashed the traditional way of life. We brought the diseases. The alcohol. We committed the murders. We took the children from their mothers. We practised discrimination and exclusion. (Keating, 2000)

This act of official remembrance provided forthright public acknowledgement of the historical facts of colonial injustice, the like of which had never before been spoken by an Australian prime minister. Following the symbolic acknowledgement of harm, later in the speech Keating hinted at the possibility of substantive structural change in the colonial relationship when he argued that the *Mabo* case could be 'the basis of a new relationship between Indigenous and non-Aboriginal Australians' (Keating, 2000).

Aside from the inherent recognition value of such forthright public acknowledgement of injustice, the speech raised Indigenous expectations for a favourable national legislative response to *Mabo* that would facilitate dispossessed Indigenous peoples in regaining lands, allowing them to control their natural resources and veto any unwanted development. The 1993 Native Title Act that followed, however, was shaped in no small part by a powerful extractive industries lobby that sought guarantees that future land negotiations would be conducted within the parameters set by existing power inequalities (Short, 2007). As Prime Minister Paul Keating asserted: 'Aboriginal people understood that a generalized veto was never on and that there was some doubt that they

even deserved a right of consultation and negotiation.'[2] Without a right to veto future development, land rights are largely meaningless. Thus, despite Keating's Redfern talk of it providing the 'building blocks of change' and a 'new relationship', when it came to the crunch the forward-looking rhetoric that accompanied the apologetic official act of remembrance did not match the reality. As has been the case throughout Australian history Indigenous interests were trumped by the settler need for territory. As Patrick Wolfe (2006) observes, 'territoriality' is settler colonialism's single irreducible element.

Significant inconsistencies between political rhetoric and political action are a pervasive feature of Australian state-driven initiatives that purport to further the cause of 'reconciliation'. The much lauded, and belated, formal state apology to the Stolen Generations offers another illustration of this point and it is to this that I will now turn.

Apology to the stolen generations

Apologies, and national remembrance initiatives more broadly, are politically important for a number of reasons: the way the past is represented conveys information about present relations; apologies define victims and perpetrators, and demarcate lines of acceptable conduct; and these in turn send signals about future behaviour. Through official acts of remembrance, such as apologies, national governments can influence the way society remembers the past, which in turn has implications for present and future public policy.

When seeking to deconstruct and better understand the various interrelated dimensions of speech acts such as apologies it is useful to consider the influential work of J. L. Austin. In the landmark 1962 study *How to Do Things with Words* Austin outlined a theory of speech acts[3] that distinguished between those utterances that were the 'constative' – used for stating things or conveying information – and those that, such as an apology, were 'performative' – an utterance used for doing things or performing actions. But merely saying a performative word does not accomplish the act. While a performative utterance is neither true nor false, speech act theory highlights a set of conditions that allow us to consider such performative utterances 'felicitous' or 'infelicitous'. Felicity conditions can be subdivided into three categories: preparatory conditions, conditions for execution, and sincerity conditions. 'Preparatory conditions' can include the authority or status of the speaker to perform the speech act, the situation of other actors and the like, while 'conditions for execution' often refer to an accompanying act (often a ritual or ceremony) without which the speech act itself is seen as lacking. 'Sincerity conditions' are those that demonstrate that the speaker must really mean what they say and are, thus, of vital importance when considering certain performative speech acts such as official acts of remembrance and apology.

Academic and practitioner writing on the theory and practice of reconciliation places much emphasis on the reconciliatory potential of official acts of remembrance that express responsibility and remorse via official apologies and reparations. Within such a formula suitable reparations will be for many (but of course not necessarily all) a vital *felicity condition* for a formal state apology – they may be a sincerity condition and, given the interrelated nature of apologies and reparations, a *condition for execution*. Certainly an apology without reparations runs the risk of seeming less sincere because reparations themselves express implicitly or explicitly an apology for wrongdoing or for failing to do more to resist atrocities. The symbolic dimension of reparations acknowledges the fact of harms and accepts a degree of responsibility while guaranteeing non-repetition. Even so, an apology depends upon a paradox. Nicholas Tavuchis (1991: 5, 77), who has developed a sociology of apology and reconciliation, has highlighted the almost magical quality of an apology:

> Very simply, because an apology, no matter how sincere and effective, does not and cannot *undo* what has been done. And yet in a mysterious way and according to its own logic, this is precisely what it manages to do.

Even though an apology may invariably be inadequate, forgiveness may depend upon it. The mystery of apology depends upon the social relationships it summons and strengthens; the apology is not merely words (Tavuchis, 1991: 115). Crucial here is the communal nature of the process of apologizing. An apology requires the involvement of each party and consequently both reflects and constitutes a moral community. The apology reminds the wrongdoer of community norms because it admits to violating them. Tavuchis (1991: 17), argues that 'to apologise is to declare voluntarily that one has no excuse, defence, justification, or explanation for an action (or inaction)'. Citing examples such as Richard Nixon's resignation speech, Tavuchis concludes that any diversion from accepting responsibility is not an apology. Full acceptance of responsibility by the wrongdoer is the hallmark of a genuine apology, a crucial *sincerity* condition. And full acceptance of responsibility is often demonstrated by accompanying words with material compensation in a concrete demonstration of sincerity.

Official apologies as acts of remembrance can function to correct the public record, afford public acknowledgement of a violation, assign responsibility and reassert the moral baseline by defining the actions in question as violations of basic norms. Even so, they are less good at warranting any promise about the future, given the shifts in officeholders (Muldoon, 2008). As Chancellor (1998: 8) writes, 'apologising is now the rage the world over, especially in the US, where it has long been a standard means of winning favour without paying any real price for one's mistakes'. Nevertheless, whoever offers an apology cannot compel forgiveness because it is still the surviving victim's right to withhold forgiveness. It is safe to say that unless vital felicity conditions are met – like direct and immediate material actions (payments of compensation and the like) that manifest responsibility for the violation – an official apology may seem superficial, insincere, or meaningless (Minow 1998:117).

Towards the end of the 1990s pressure mounted on the government to issue a formal apology for one specific dimension of Indigenous settler relations – the issue of the 'Stolen Generations'. The Stolen Generations is the now common term for the victims of a systematic state-sanctioned forcible removal policy in which thousands of Aboriginal babies and children of mixed descent were taken from their mothers, families and communities.[4] Despite the systematic and widespread nature of the removal policies they were shrouded in a great silence.

W.E.H. Stanner observed in 1969 that Australian history was a narrative silent about the relations between Aborigines and settlers, and he called upon historians to break what he termed the 'cult of forgetfulness' or 'the great Australian silence' (Stanner, 1969: 25). By the late 1980s the silence was being broken in the cultural realm with musicians such as Archie Roach writing about the child removal policies in his song 'They took the children away'. In the academic realm Peter Read and Coral Edwards produced a landmark book, The Lost Children (Edwards and Read, 1989). In 1996 Doris Pilkington wrote the now famous book Follow the Rabbit-Proof Fence about the living conditions in children's institutions, describing them as 'more like a concentration camp than a residential school for Aboriginal children' (Pilkington, 1996: 72). And yet it wasn't until 1997 that the silence was truly broken with the publication of the Human Rights and Equal Opportunity Commission's report – *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (1997), generally known as *Bringing Them Home* (BTH). BTH contained harrowing evidence, finding that forcible removal of Indigenous children was a gross violation of human rights that continued well after Australia had undertaken international human rights commitments. In particular, the report concluded that the

removal constituted an act of genocide contrary to the 1948 Convention on the Prevention and Persecution of the Crime of Genocide (which forbids 'forcibly transferring children of [a] group to another group' with the intention of destroying the group).[5] It was racially discriminatory because it only applied to Aboriginal children on that scale. The report linked the finding of genocide to the question of an apology and both were discussed in the context of 'reparations'; the inquiry recommended monetary compensation among other steps rather more concrete than saying sorry or pledging 'never again' (Barta, 2008: 208).

Testimony to this aspect of Stanner's 'great Australian silence' was the omission of any reference to this genocide in the reconciliation process enabling legislation (CARA, 1991) – which given the magnitude of the injustice was astonishing for a national 'reconciliation' process. By some estimates, up to 100,000 children were removed under the policies from the early years of settlement up until the late 1970s. Over time, though, especially following publication of BTH, the issue of the Stolen Generations became inextricably linked to the notion of 'reconciliation'. Indeed, a few years after the report Colin Tatz (1999) argued that Aborigines in general considered the Stolen Generations one of the most serious issues in their lives, and as such one that must be addressed in a genuine attempt at reconciliation.

However, when the John Howard government (1996–2007) was faced with the publication of BTH (1997) and the widespread calls for an official apology, Howard chose to attack the report's findings engaging in what Cohen (2001:109) has termed 'implicatory denial'. The closest Howard would allow himself to come to an apology was to express regret for the 'blemish' of the past, because for him there was little to regret about an Australian history that broadly constituted an 'heroic and unique achievement against great odds' (Howard, 2000: 90). For Howard, concerns over post-colonial legitimacy simply displayed a lack of national self-confidence (Short, 2008).

In the run-up to the national election in November 2007, the then opposition leader Kevin Rudd promised to issue a formal state apology if his party returned to power. Nevertheless, when the Howard government was defeated, there was some surprise when Rudd made it the first order of business for the new parliament (Barta, 2008: 204). As Tony Barta writes:

> in the long years of waiting, and in the last weeks of consultation about the exact wording, Aborigines of the stolen generations made clear that 'sorry' was the only word that would do. Rudd did not fail them.

The surrounding fanfare was truly extraordinary. As a television event it was widely promoted; in Canberra giant screens were erected in the manner of a major sporting event so that crowds could gather. Schools allowed children out and Indigenous people from far and wide converged on Canberra to witness this historic event, which finally took place on Wednesday 13 February 2008.

But how was the apology received by the people to whom it was directed? It was a significant and emotional event, not least because it brought to an end the Howard years of denial. Indeed, the emotional impact of the apology was perhaps more acute for many Indigenous people because of the tremendous difficulty in getting the Commonwealth to make such a simple gesture. Although it is difficult to establish exact numbers in each case, it is clear that there were three types of responses among Indigenous groups.[6] Some groups received it unreservedly,[7] while others felt it was a welcome but seriously belated 'first step' – one that should see compensation follow quickly, and a third strand felt it a hollow gesture without accompanying compensation. Christine Fejo-King provides an example of the first response type: 'for many of us … (the apology brought) the relief and peace we had been searching for, for so long … Saying "Sorry" was the right thing to do. Past government policies and practices of removing Indigenous children have damaged so many

peoples' lives. Saying "Sorry" acknowledged the past, the trauma it caused at the time, and the hurt and suffering it continues to cause today' (in Moses, 2011: 153).

The following quotation from John Browne, chairperson of the Journey of Healing Association of South Australia, is an example of the second (apology as 'first step') response type: 'People are saying (that) an apology is hollow without reparations or compensation. Well, I say it may be hollow but it's a start. I mean, just to get the federal government to apologise is a big thing' (in De Tarczynski, 2008). Kathy Mills, an Aboriginal woman, provides an example of the third response type arguing that 'the apology was empty because in the same breath Rudd took all the goodness out of the intention by saying there will be no compensation … Removing children from their family is a crime against humanity that has not been addressed' (in Hall and Perpitch, 2010). In a similar vein Lyn Austin, chairperson of Stolen Generations Victoria, argued that 'the forced removals, the atrocities that our people have suffered in the institutions and the church homes and wherever (as) victims of sexual and physical abuse and the trauma and the pain, 'are reasons for compensation … I could walk out on the street tomorrow and trip over the footpath and sue the local council. I'd get compensated for that, so why not compensation for stolen generation members?' (in De Tarczynski, 2008).

So, while some Indigenous peoples accepted the compensation-less apology unreservedly, others did not. The empirical reality is that the lack of accompanying financial restitution was, and still is, a major issue for many Indigenous peoples.[8] The lack of accompanying compensation to the victims of the forced removal policies has meant that they are left to try their luck in the courts – if they can afford it. Such a position, for some Indigenous people significantly diminishes the quality, and sincerity of the apology. For them the lack of accompanying reparations means that a necessary felicity condition has not been met.

During the official reconciliation process Howard sought to minimize Australia's genocidal history whenever possible and rather than offering a formal state apology he merely regretted this 'blemished' aspect of Australian history. Unfortunately Rudd used the same word in his apology, which diminishes its acknowledgement of the enduring *deep wound* created by a genocidal policy that spanned a century. There is also another sense in which the apology failed to describe the harm inflicted accurately and in the terms favoured by many of the victims and the BTH report – i.e. 'genocide'. In this sense Tony Barta (2008) has recently argued the apology 'buried a history of genocide'. Indeed, the apology itself constructs a version of the past as it is both 'a form and function of remembering the past' (Roediger and Wertsch, 2008: 9).

The link between genocide, an apology and reparations made by the BTH report dissolved when the Rudd government firmly rejected a compensation fund and omitted to use the 'G word' in the formal apology. Possibly fearing electoral suicide, Rudd failed to mention 'genocide' in his apology, which arguably highlights the failure of the reconciliation process on its own terms. Indeed, the stated objective of the reconciliation process was to educate the non-Aboriginal population to better understand Indigenous issues and eventually back a treaty, and yet it seems that non-Indigenous support was a political pre-condition for making an official apology. For instance prior to Rudd's apology polls suggested that the public was roughly split 50/50; however, after he made the apology, the majority supported it.[9] Thus, it is highly likely that if Rudd had included the word genocide, the majority of Australians would have rejected the apology and punished him at the next election because BTH's genocide conclusion was the most controversial aspect of the report's findings. The Howard government and its supporters launched swathes of attacks on that aspect of the report alone (Manne, 2001). And yet, as Barta writes:

> the government changed, and the apology was pushed into the limelight without the legal argument that had helped place it on the national agenda. The nation, it is safe to say, did not want to know. The Rudd government, striving for maximum consensus, was not about to rub open a bitter controversy. (2008: 208)

Once again the colonial context in which such acts of remembrance are made is in evidence here. As Aboriginal people remain a persistently marginalized minority in Australia, the possibility of a genuinely decolonizing reconciliation process (which includes treaties between the settler state and Indigenous nations – as requested by the treaty campaign of the late 1980s that led to the reconciliation process) remains dependent on the mobilization of support of a wider non-Indigenous public.

Going beyond the genocide issue the campaign group, the Stolen Generations Alliance, has called for an audit of the progress in implementing BTH's 54 recommendations and they point to another function of the apology – it gives the impression that everything has been done for the Stolen Generations survivors when most of the recommendations have not be implemented.[10] Aside from these issues, it should be noted that another governmental policy provided a backdrop to the apology that many Indigenous people felt rendered the apology somewhat hypocritical because the policy in question has a racially discriminatory core. The day before the apology was delivered thousands of Indigenous people had marched in protest in Canberra against the continuation of a now infamous Howard government initiative. In 2007, without consulting the targeted Indigenous communities and under the auspices of protecting children from abuse, the Howard Government, introduced the Northern Territory National Emergency Response Act (often referred to as the Intervention) – a discriminatory package of changes to Indigenous welfare provision, law enforcement, land tenure and basic freedoms that the United Nations has since denounced as racially discriminatory[11] and I have argued is genocidal (Short, 2010).

Colonial remembrance and the Indigenous sovereignty challenge

Since its inception Australian reconciliation has exhibited a nation-building agenda, an approach that ignores the fact that at the time of invasion Indigenous peoples were self-governing political entities or 'sovereign nations' (Reynolds, 1996),[12] and in spite of 200 years of colonialism many Indigenous groups can still claim, and prove, such status.[13] As Reynolds states, Australia 'has never been *one* nation, popular rhetoric notwithstanding. We share a country, a continent and a state, but not a nation' (1996: 178). Rudd's apologetic act of remembrance continued this colonial construction with frequent references to a singular 'nation'. Indigenous nationhood was written out of official reconciliation so as to avoid the accusation of 'separatism' and discourage Indigenous peoples' 'claims' based on difference (Moran, 1998; Short, 2008), and Rudd's apology continued in this vein. The failure to accord Indigenous nationhood equal recognition and respect during the official reconciliation process, and in the apology's construction of a singular 'national' memory, highlights an important issue that remains unaddressed but which underpinned the treaty campaign in the late 1980s – what John Howard in 1988 described as the 'absurd proposition of Aboriginal sovereignty'. Aboriginal sovereignty in this context is 'absurd' because the settler state constituted itself as the only sovereign on the continent and no treaties were signed with Indigenous peoples.

Thus, the crux of the Indigenous sovereignty challenge is that settler state sovereignty was not legitimately established and Aboriginal sovereignty was, and continues to be, illegitimately ignored. This has profound implications for a reconciliation process instigated *because of the injustice of Australian settlement and colonial dispossession* but as an alternative to a treaty.[14] In short,

a reconciliation process that does not address the Indigenous sovereignty challenge cannot be considered decolonizing. That is not to suggest all aspects of Australian reconciliation are therefore devoid of value; there may be many important symbolic (like the apology) and practical acts that go some way in addressing the injustices of the past for some indigenous people, but if they do not confront the constitutional issue a fundamental aspect of Indigenous/settler relations will remain unaddressed (see Gunstone, 2007, Muldoon, 2009) and inherently colonial. As Muldoon and Schaap (forthcoming) write: 'while the apology provided a measure of recognition (both of the suffering endured by Indigenous people and of the value of their culture), it was marred by an ongoing failure on the part of the Australian state to properly acknowledge what the history of its relations with Indigenous people disclosed about *its* identity'.

Criticism of the apology on these terms has come from within Australia but due to the high profile nature of the apology it also attracted attention from overseas. As Dirk Moses (2011: 149) writes, 'some Indigenous intellectuals outside Australia were unimpressed with the apology, not only because compensation was not in the offing, but because it did not seriously question the terms of the Australian nation-state'. Because the Australian apology did not set out on this course, it 'did not succeed in transforming existing colonial relationships with Indigenous people' (Moses, 2011: 149). It was a 'distraction' (Corntassel and Holder, in Moses: 2011: 149). Moses, however, disagrees with this critique and suggests that such a position is 'non-falsifiable in the sense … that it *presumes* the persistence of colonial domination, irrespective of legal and policy changes, by the tautological and essentialist reasoning that colonialism by definition cannot tolerate Indigenous alterity' (Moses 2011:146).

This is an important challenge for a reading of the formal reconciliation process, and its official acts of remembrance, as a process formed and underpinned by fundamental colonial impositions, assumptions and constructions.[15] Even so, an *enduring* problem is that Indigenous sovereignty is not recognized or respected in Australia. Its existence is only implicitly recognized in the notion of native title, which gains its content from observable Indigenous 'traditional' laws and customs that have continued to survive colonization. Constitutional recognition of Indigenous sovereignty (for example via a set of treaties) with a concomitant political right to self-determination is unfortunately still an 'absurd proposition'.[16] Moreover, as I have outlined above, legal and policy changes such as the Native Title legislation and the 'Intervention' are inherently colonial in important ways that are observable as such and not simply presumed. The Native Title legislation, following the *Mabo* case, presumed legitimate settler state sovereignty, placed the burden of proof on Indigenous people to prove they have a right to their land and even if they are successful denied them a veto over development – all achieved without consulting those most likely to be affected by such policies. These measures cannot reasonably be described as 'post-colonial' and neither can the recent 'Intervention'. The latter is a racially discriminatory top-down imposition that includes arbitrary land acquisition and does not enjoy the support of those affected by it even though a small minority of Indigenous people welcomed its measures (Short, 2010). Moreover, this racially discriminatory Intervention was endorsed by the Rudd government at the same time as its apology sought to consign such 'for their own good' discrimination to the past.

Conclusion

Australian reconciliation has to date included two well received acts of official remembrance, both of which were heralded as signalling a new era in Indigenous settler relations. While they both included post-colonial sentiment and sought to imagine a new direction for Australia in this regard, they both occurred in a colonial political context that contradicted their narratives. The apology, in

effect, not only 'buried a history of genocide' (Barta, 2008) but it imagined Australia as post-colonial when no meaningful structural or functional change to the colonial order has occurred. The relationship continues to be, as Patrick Wolfe (2006) argues, a 'structure not an event', and a structure so deep that it will take a lot more than words to change. When it came to follow up the good words with deeds the settler state was found wanting. After the Redfern Park speech (Keating, 2000) the government enacted legislation to limit the impact of common law land rights in favour of powerful commercial interests to such an extent as to render them largely meaningless. Furthermore, for many indigenous people the official apology failed to meet important felicity conditions, as it was not accompanied by reparations and, to make matters worse, it occurred at the same time as the government presided over the continued suspension of Australia's only Racial Discrimination Act – so as to maintain the discriminatory package of measures known as the Intervention. The incongruous nature of these acts at best render the symbolic gestures somewhat empty and at worse cynically self-serving.

This article has argued that acts of official acknowledgement and remembrance by a settler state – allegedly seeking to decolonize its relationship with Indigenous peoples – are considerably diminished by the positively *colonial* contemporary political context in which they were made. Indeed, until the state goes further than mere words the reconciliatory power of such symbolic acts of remembrance will always be diminished; and, until Aboriginal sovereignty is formally acknowledged and respected claims, that Australia has decolonized its relationship with Aboriginal people are premature.

Notes

1. Which held that Indigenous 'native title' to land could be granted if Indigenous groups could prove traditional and continuing connection to land they still occupied.
2. On the television programme SBS Dateline, 28 July 1993 (see www.sbs.com.au/dateline/).
3. For more on speech act theory see Austin (1962), Levinson (1980 and 1983), and Searle (1969).
4. The policies and practices of removal were in effect throughout the 20th century until the early 1970s. There are many Indigenous people, now in their late 20s and early 30s, who were removed from their families under these policies. Although the official policies and practices of removal have been abandoned, the *Bringing Them Home* report reveals that the past resonates today in Indigenous individuals, families and communities (Human Rights and Equal Opportunity Commission, 1997).
5. Article II(e) (Schabas, 2008).
6. I have formed this broad classification of responses from over 20 of my own post-apology interviews with Indigenous peoples, from mainstream media quotations, from Indigenous media reports, online discussion forums and activist networks. Even so, in the absence of systematic quantitative and qualitative social research into Indigenous responses to the apology, it is not yet possible to say which of the strands I tentatively identify is numerically dominant.
7. See Moses, 2011 for examples of such responses.
8. See Pearson (2008) on this and Hall and Perpitch (2010) who cite over 500 members of the Stolen Generations Alliance still seeking compensation (see Stolen Generations Alliance, 2000–10).
9. See Creative Spirits (n.d.).
10. See Stolen Generations Alliance (2010).
11. See UN Special Rapporteur James Anaya's comments (United Nations, 2010).
12. For a discussion on Aboriginal 'nationhood' and the misconception that Aboriginal groups were not 'distinct political entities' at the time of conquest, see Reynolds (1996).
13. As of the 3 March 2011 there are at least 93 Indigenous groups in Australia that have proven to the satisfaction of the Native Title Tribunal that they have a continuing attachment to their land and live by observable 'traditional laws and customs' that can be traced back to pre-colonial times, see National Native Title Tribunal (2008–11). Their sovereignty provides the content of Native Title but is not officially recognised for what it is or respected in its own right.

14. See Short (2008) on this.
15. For such a reading see Short (2008).
16. James Tully's political theory has outlined how a decolonizing treaty process could be achieved and I applied his work to the Australian context (Short, 2008) to show just how a liberal democracy could, in theory, recognize Indigenous sovereignty while retaining its own. In December 2010 the Gillard Government established a panel of experts to consult with the Australian community about amending the Constitution to recognize Indigenous Australians. It aims to report to the Government by December 2011 on possible options for constitutional change. It remains to be seen to what extent this initiative will recognise and afford equal respect to Indigenous sovereignty (see ANTaR, n.d.).

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