

FREEDOM OF RELIGION, BELIEF, AND INDIGENOUS SPIRITUALITY, PRACTICE AND CULTURAL RIGHTS

**PREPARED FOR THE AUSTRALIAN INSTITUTE OF ABORIGINAL
AND TORRES STRAIT ISLANDER STUDIES:**

By the Centre for Education, Poverty and Social Inclusion,
Faculty of Education, University of Canberra

Associate Professor Katja Mikhailovich
Ms Alexandra Pavli

Assisted by Professor Cathryn McConaghy and Mr Nathaniel Ward

Table of Contents

FREEDOM OF RELIGION, BELIEF, AND INDIGENOUS SPIRITUALITY, PRACTICE AND CULTURAL RIGHTS.....	1
Preamble.....	3
1. Introduction.....	3
About this discussion paper	3
2. Key concepts	4
Religion and spirituality.....	4
Freedom of religion and belief.....	5
Discrimination.....	6
3. Indigenous spirituality in Australia.....	7
Key issues	7
Colonisation and traditional spirituality	7
Traditional Indigenous spirituality and the “Dreaming”	8
Traditional Torres Strait Islander spirituality	8
The impact of Christian missions upon traditional Indigenous spirituality	9
The impact of the missionaries in the Torres Strait	11
The early influence of Islam on the spiritual beliefs of Indigenous Australians	12
Social policy, Indigenous culture and religious expression.....	13
The spiritual and religious beliefs of Indigenous Australians in the 21st century.....	16
Indigenous people and other religions today	18
4. Indigenous spirituality and connection to land and sea.....	20
Key issues	20
The significance of land rights and native title in Australia	21
Continuing problems in the land rights and native title systems	23
5. Indigenous spirituality, health and wellbeing	24
Key issues	24
6. Indigenous spirituality, kinship and social organisation.....	27
Key issues	27
7. Indigenous spirituality and contemporary ritual and ceremony.....	28
Key issues	28
Current barriers to the practice of ritual and funerary customs	30
8. Indigenous spirituality and artistic expression.....	31
Key issues.....	31
Protecting Indigenous cultural and intellectual property rights	33
9. Indigenous spirituality and language.....	35
Key issues	35
Barriers to the maintenance of Indigenous languages	36
10. Conclusion.....	36
Appendix A: Timeline	41
Endnotes	44

Preamble

In accordance with Aboriginal protocols, we wish to acknowledge the traditional owners of this country and land, both those who continue to live here, and those of other times and places.

1. Introduction

Freedom of religion and belief in Australia is recognised as a human right under Article 18 of the International Covenant on Civil and Political Rights. It includes the freedom to have or adopt a religion or belief of one's choice, whether theistic, non-theistic or atheistic—and it includes the right to manifest one's religion or belief in worship, observance, practice and teaching.

In 2006 the Ministerial Council on Immigration and Multicultural Affairs endorsed the National Action Plan to Build on Social Cohesion, Harmony and Security (NAP). As part of the NAP, the Australian Human Rights Commission (AHRC), Australia's independent statutory authority that administers Commonwealth human rights laws, received funding to undertake a range of projects. One is to report on freedom of religion and belief in Australia. The AHRC is working with the Australian Multicultural Foundation and other agencies to undertake a major research and consultation project on freedom of religion and belief in Australia.

The Australian Human Rights Commission (AHRC) project on Freedom of Religion and Belief in the 21st Century will examine the extent to which this right can be enjoyed across Australia today. Although rights to freedom of speech, thought and religion are highly valued hallmarks of democratic societies, they are also sites of fierce conflict. This project aims to identify barriers to freedom of religion for various religious groups, and how to address them. The project would not be comprehensive without discussing freedom of religion and belief for Indigenous Australians. Such a discussion is all the more important as the denial of access to cultural and religious practice and to sacred sites has had, and continues to have, severe and dislocating impacts on Indigenous communities. Indigenous self-determination, continuing cultural revival and long-term physical wellbeing, will not be possible without addressing the spiritual dimensions of Indigenous community life.

This discussion paper will therefore consider the extent to which Aboriginal and Torres Strait Islander people have been able to enjoy the right to freedom of religion historically and currently in Australian society. The paper will provide information, raise questions and make suggestions to contribute to building a more harmonious and respectful Australian community. It cannot, however, cover all the issues that relate to Aboriginal and Torres Strait Islander spiritual belief and practice, nor always in the depth that they deserve. It does cover many key concepts and raises issues for further public and policy consideration for the future of human rights in Australia.

About this discussion paper

This discussion paper will outline key concepts concerning Indigenous spirituality, in particular:

- traditional Indigenous spirituality
- the impact of Christian missions, Islam and government policy on traditional Indigenous spirituality
- how Indigenous spirituality and religion has evolved into new forms
- issues pertaining to freedom of religion and spirituality in Australia today.

In writing this paper, we are conscious that since colonisation, Australian Aboriginal and Torres Strait Islander people have been viewed through the lens of non-Indigenous Australians. Many of the historical and contemporary images of Indigenous people and their beliefs and traditions are produced and controlled by non-Indigenous Australians.^{1,2} Archaeologists, historians, philosophers, theologians, lawyers and politicians have all articulated their understanding of Aboriginal and Torres Strait Islander spirituality and religions. Over the last two centuries this has contributed to myths about Indigenous people and has tended to influence enduring public perceptions in two general directions: one in negative stereotyped terms and the other in a romanticised and sentimental manner. However, over recent decades many Indigenous authors, film makers, artists and others have developed a large corpus of representations that have begun to disrupt these myths.

Non-Indigenous understanding about Indigenous spirituality emerged in the context of colonisation. The appropriation of Indigenous knowledge, in addition to land, freedom and culture, is a recognised feature of Australian colonial history. Over the past 30 years interest in Aboriginal spirituality and religion has burgeoned. This has emerged in a context of concern about the loss of language and culture of Indigenous Australians, but also as part of the re-examination of the losses associated with the growing materialisation of contemporary civilisations. Central to this renewed interest in Indigenous spirituality has also been a reexamination of the anthropological record. The work of past non-Indigenous scholars has come under close scrutiny. In parallel, Aboriginal and Torres Strait Islanders artists, scholars and theologians are increasingly presenting their own accounts of spiritual and religious beliefs and practice.

In selecting materials to contribute to this discussion paper we have drawn on published work by Aboriginal and Torres Strait Islander people as much as possible, as well as that of academics, theologians and contemporary commentators concerned with Aboriginal and Torres Strait Islander cultures. Intentionally the paper draws on diverse perspectives and views about spiritual and religious beliefs evident in modern Aboriginal and Torres Strait Islander cultures.

NOTE: The terms ‘Aboriginal’ and ‘Torres Strait Islander’ will be used to refer to the many peoples and language groups who were living in Australia before European settlement. The term ‘Indigenous’ is used to refer collectively to the First Peoples of Australia and includes recognition of the diversity of Aboriginal and Torres Strait Islander people.

2. Key concepts

Religion and spirituality

The definition of religion and belief offered by the Australian Human Rights Commission’s 1998 report, Article 18: Freedom of Religion and Belief, has been adopted for this discussion paper to correspond with the terms of the broader project to which it will contribute.

Religion and belief should be given a wide meaning, covering the broad spectrum of personal convictions and matters of conscience. It should include theistic, non-theistic and atheistic beliefs. It should include minority and non-mainstream religions and belief systems as well as those of a more traditional or institutionalised nature. Religion or belief should be defined as a particular collection of ideas and/or practices that:

- *relate to the nature and place of humanity in the universe and, where applicable, the relation of humanity to things supernatural;*

- *encourage or require adherents to observe particular standards or codes of conduct or, where applicable, to participate in specific practices having supernatural significance;*
 - *are held by an identifiable group regardless of how loosely knit and varying in belief and practice;*
 - *are seen by adherents as constituting a religion or system of belief.*
- The definition should not apply to all beliefs but only to those that clearly involve issues of personal conviction, conscience or faith.*

Spirituality is a broader term than religion, understood as more diffuse and less institutionalised than religion. The term spiritual pertains to the incorporeal, the non-material, the ethereal, the seat of moral or religious nature, to the ecclesiastical and the sacred.³ It refers to an experiential encounter and relationship with otherness, with powers, forces and beings beyond the scope of the material world. The other might be God, nature, land, sea or some other person or being. Spirituality has also come to be associated with movements or groups that are not always religious in nature, such as groups concerned with protecting nature who see a spiritual dimension to this activity.⁴

In Australia today the term religion tends to refer to more socially organised and structured ways of being spiritual. Religions such as Judaism, Christianity, Islam, Buddhism, Taoism, Hinduism and many others provide deep traditions of spiritual practice. The terms religion and spirituality are not synonymous but neither are they always discrete. A modern interest in spirituality is often linked to self-development and indicates a search for meaning and direction.⁵

Religion and spirituality offer ethical and moral codes influencing relationships between individuals, communities and societies more broadly. Through religious and spiritual beliefs, people not only find meaning in life's tragedies and triumphs but in existence, belonging, identity and culture. Many ancient Indigenous cultures are embedded with rich spiritual beliefs and practices, not least traditional Aboriginal and Torres Strait Islander cultures.

Freedom of religion and belief

Freedom of religion is enshrined within the United Nations Declaration on the Rights of Indigenous Peoples.⁶ Article 12 states:

Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

The right to freedom of religion and belief is also enshrined under the 1948 Universal Declaration of Human Rights. According to Article 18:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his [sic] religion or belief, and freedom, either alone or in community with others and in public or in private, to manifest his [sic] religion or belief in teaching, practice, worship and observance.

In this discussion paper, freedom of religion and belief also refers to the freedom not to hold

or manifest a religion or belief. Both individuals' religious freedoms, as well as those of religious communities, are considered.

Discrimination

Australia has a federal and state system of government and laws on discrimination, racism and racial hatred. Australia has a written constitution, but has no bill of rights. Human rights legislation in Australia is based on international law, as a result of Australia's commitment to a range of international human rights instruments. These have been articulated in detail in the paper prepared for the AHRC by Carolyn Evans, *Legal Aspects of the Protection of Religious Freedom in Australia*.⁷ The rights to freedom of religion and belief and to freedom from discrimination on the basis of religion have been protected constitutionally in Section 116 of the Commonwealth Constitution⁹, and legislatively by the Commonwealth in the Human Rights & Equal Opportunity Commission Act 1986 (Cth) (the HREOCA), the Racial Discrimination Act 1975 (Cth)(2) and the Workplace Relations Act 1996 (Cth) and by several states and territories in antidiscrimination and Commonwealth and state industrial relations legislation.

3. Indigenous spirituality in Australia

Key issues

The history of colonisation has influenced, and continues to influence, the religious and spiritual beliefs of the Aboriginal and Torres Strait Islander peoples.

While missionaries often forcefully imposed Christianity on Indigenous people, responses to Christianity varied greatly, including ambivalence, rejection or enthusiastic acceptance.

Traditional Indigenous spiritual/religious beliefs and practice have persisted to the present, and are sometimes combined with other religious traditions.

While much information is available on the traditional beliefs of Aboriginal and Torres Strait Islander peoples, more information is required to gain a broader picture of contemporary religious and spiritual beliefs.

Further consultations should take place with Indigenous Christians, Muslims and other minority religions across Australia to determine more fully their concerns relating to freedom of religious belief.

The challenge for contemporary Australia is to support Aboriginal and Torres Strait Islander peoples right to self-determination and the right to define and control culture, identity and forms of religious or spiritual expression and belief.

Colonisation and traditional spirituality

'Every fence in Australia encloses land that was once the sole or shared possession of a particular group of Aboriginal people. There are virtually no exceptions to that statement'
(W.E.H. Stanner)⁹

Indigenous Australians have occupied the Australian continent for at least 40 000–60 000 years, over 2000 generations. Archaeological evidence indicates that Aboriginal people came from South-East Asia during the last ice age. In some areas of Australia, Aboriginal Elders say that their people have always been here, while in other areas it is believed that ancestral beings came across the sea and peopled the land.¹⁰ Torres Strait Islanders, Melanesian by ethnic origin, are seafaring and trading people based on the islands between far North Queensland and Papua New Guinea.

At the time of first British contact it is estimated that the Indigenous population was about 750 000 separated into around 500 clearly demarcated social groupings with over 200 distinct languages with multiple dialects.¹¹ Most of the Australian landmass was home to different Aboriginal and Torres Strait Islander societies. The colonial process through violence and appropriation of land led to the loss of language, knowledgeable people, sacred sites and hunting grounds—an enormous amount of spiritual and religious capital. The long and protracted period of colonial war and Aboriginal resistance is beyond the scope of this

discussion paper.^{12 13 14} Nonetheless the systematic violence and dispossession of Aboriginal lands have enduring impacts on Aboriginal and Torres Strait Islander culture today.

Traditional Indigenous spirituality and the “Dreaming”

In traditional Aboriginal society, spirituality is a part of every aspect of life. The “Dreaming” is commonly used to describe Aboriginal spirituality within the English language. Galarrwuy Yunupingu described it as, ‘just a word we learned to use for the ears of white people for the sake of communication’.¹⁵ Within Indigenous languages, each language group has its own term to refer to this epoch and all that is associated with it. Ngarinyin people in the north-west of Western Australia refer to it as Ungud, the Arendte of central Australia as Aldjerinya, the Pitjantjartara of north-west South Australia as Tjukurpa, the Yolgnu of north-east Arnhem Land as Wongar.¹⁶

Aboriginal terms for the “Dreaming” encompass understandings about their origins. The concept of the “Dreaming” does not assume the world was created from nothing. Instead, it assumes a pre-existent substance, often described as a watery expanse or a featureless plain. From this formless earth, ancestral spirit beings emerged and assumed forms and identities which had the features of humans and the various animal and plant species that now inhabit the earth. As the spirit beings moved over the surface of the Earth they performed the everyday activities of humans and the other species they represented; they hunted, ate, fought, danced, gathered foods, dug for water and died. As they travelled, their tracks and activities were transformed into the rocks, mountains, waterholes, trees, stars and other environmental features.¹⁷

While the activities of the “Dreaming” occurred at the beginning of the world, in a sense they are present now. The Aboriginal concept of time is cyclic rather than linear, and each generation can experience the present reality of the “Dreaming”. Deborah Bird Rose refers to it as the heroic time, which existed in the past, and still exists today.¹⁸ Anthropologist W. E. H. Stanner (1905–1981) coined the term ‘*every when*’ in an attempt to convey this idea: ‘we cannot fix the dreaming in time: *it was, and is every when*’.¹⁹

It is not possible to talk about the “Dreaming” without talking about land or country. Land, sea and sky are the core of all Indigenous spirituality and relationships. The whole of the landscape is conceived as having been formed through the activities of ancestral spirits. They laid down the roles to be taken up by men and women in matters such as sacred ritual, economic affairs, marriage, child bearing and burials. The landscape, shaped by the ancestral spirits, is therefore the source of life and law.²⁰

Traditional Aboriginal spiritual life is different from that of monotheistic faiths in that they are ‘geosophical’ or earth-centred, rather than ‘theosophical’ or god-centred.²¹ Traditional Aboriginal spirituality does not distinguish between the physical and the spiritual realms. The country is dotted with significant sites associated with stories, where the spirit beings first emerged, where they performed the ceremony or where they died and re-entered the earth. The entire Australian continent is crisscrossed with the tracks of ancestral spirits and in one sense all the land is a sacred site.²² People derive their spiritual essence from the ancestral spirit beings and share the same spiritual essence that inhabits the land, sea and other species.

Traditional Torres Strait Islander spirituality

Traditional Torres Strait Islander cultures also refer to the ancestral beings that gave Torres Strait Islanders lores to live by and that taught respect for each other and the earth and sea.

Torres Strait Islanders are connected to one another by ancestral beings that traversed the Torres Strait. Through them, Torres Strait Islander people are linked to the people of southern New Guinea and northern Queensland. The cultural story of Tagai is shared by Torres Strait Islanders. Tagai is made up of the stars seen in the night sky. He is seen as a man standing in a canoe. In his left hand, represented by the Southern Cross, he holds a fishing spear. In his right hand, he holds a red-skinned fruit somewhat like an apple, called sorbi.²³ The Torres Strait Islanders look up to Tagai in the night sky and depending on his position they know when to plant crops. When Tagai's left hand (the Southern Cross) moves towards the sea, the first rain begins.²⁴

Other spiritual narratives are important in particular regions of the Torres Strait. For example, the story of Malo – (the English name for the original God is too sacred to be referred to here directly). Therefore, the word 'Malo' always hides the deeper meaning known to the Meriam people. Malo is central to the spiritual traditions of the Meriam. The story consists of two narratives. First, Malo came from just beyond the present boundary with Papua New Guinea. He transformed himself into a whale and swam down until he reached an island in the far west of the Torres Strait. Malo then changed into a canoe, and then to a turtle, and each time the people recognised him as a zogo, a supernatural being. Finally Malo arrived at the island of Mer, where people recognised him as a god and protector. The second narrative tells of Malo, a man with a shark's head.²⁵ Malo combines the power of the many creatures of the sea, and is the pinnacle of the zogo, the ultimate power of the sea people.²⁶ Sacred dances and chants performed by the power of Malo became known as the dances of Malo. The coming of Malo also resulted in the eight clans of the Murray Islands living together. This was embodied in Malo's Law—the rule by which people conserve the land, make it bountiful and protect the rights of the people.²⁷

By the 1840s the London Missionary Society had been active in the Southwest Pacific and later turned their efforts to converting the people of New Guinea to Christianity. The missionaries landed at Erub Island in 1871, introducing Christianity to the region. This became a significant day for Torres Strait Islanders, who are now predominantly of Christian faith. The Coming of the Light festival marks the day the London Missionary Society first arrived in Torres Strait and religious and cultural ceremonies across Torres Strait and mainland Australia are held on 1 July each year.²⁸

The impact of Christian missions upon traditional Indigenous spirituality

Christianity has influenced Aboriginal and Torres Strait Islander spirituality in a variety of ways since the first missionary presence in Australia, the Wesleyan Missionary Society, arrived in 1821.²⁹ From this basis the missionary presence spread throughout the whole continent so that by the middle of the 19th century there were church settlements throughout Australia.³⁰ Roman Catholic, Anglican, Presbyterian, Methodist, Lutheran and Pentecostal churches all established missions in Australia and attempted to convert Indigenous communities to their religious beliefs. The degree to which the missions enforced their faith on Australia's First Nations varied depending on the mission. Each missionary group mixed varying degrees of repressive paternalism with enlightened respect for Aboriginal traditions.³¹ Therefore, while in many situations the influence of missionaries led to a loss of traditional spiritual beliefs, in other cases Indigenous religions merged with Christianity, or Christianity was rejected altogether.

The early missions were clustered around the southern coastal regions of Australia, however the influence of Christianity quickly expanded to the north. A variety of congregational societies collaborated with governments to convert large areas of northern Australia into mission-controlled reserves. These included the Heathens Missions Committee in 1865,

followed by Catholic, Lutheran and Anglican societies in the 1880s.³² The London Missionary Society evangelised the Torres Strait in 1871. They brought in teachers from the South Pacific who helped build local churches. Local church leaders mediated between the Europeans and the Islanders and curtailed many traditional practices. In 1914 the London Missionary Society passed on its role to the Anglican Diocese of Carpentaria. Most of the Aboriginal communities that now exist in northern Australia were once missions.³³ For some, the missionary imperative was one of offering Christian salvation to people whom they saw as ‘heathens’³⁴ saturated with ‘Satanism’ and ‘barbaric immorality’.³⁵ For others in the early decades of colonial rule, European Christian missionaries had become aware of the physical genocide, intentional or unintentional, that was rapidly occurring among Indigenous people. Many of the Aboriginal people they met had been dispossessed of their lands and forced to co-locate with clans and other tribes and moved to inhospitable parts of the country.³⁶ Some missionaries saw their vocation as instrumental in the spiritual salvation of the souls of people perceived as a race destined to die out.³⁷

The missionaries from the colonising culture brought with them not only a new faith but also a new way of life and they depended upon Aboriginal labour to build and maintain missions. During this period, governments accepted missions as de facto government social services. When they wanted to extend control over Aboriginal people, governments would request a mission be established.³⁸ On missions, Aboriginal workers were paid at a fraction of the white rate. It was a system where white administrators and missionaries attempted to govern every aspect of Aboriginal lives. Missions in cooperation with government controlled the language Aboriginal people spoke, their housing, their labour, their wages, their education, their movements to or from their communities, their relationships, their expression of sexuality, their religious practices, their marriages and their children.³⁹

A number of strategies were prevalent in the missionary era during the 19th century to convert Aboriginal people to Christianity. These included the translation of the Bible into Aboriginal languages and restrictions on the speaking of Indigenous languages. The mission school became the centre of Christian indoctrination and was the focus around which much missionary work revolved.⁴⁰ Rations were also used as a control strategy within the mission environment to regulate Aboriginal involvement in Christian conversion.⁴¹ However, in many instances missions struggled to convince Aboriginal people to stay and work in the mission. Aboriginal people often used ration provisions provided at missions only to leave again when traditional food was available. Most of the early missions lasted only 3–15 years in the face of the rapid decline in the Indigenous population.⁴²

The success of the missions varied greatly, depending on the financial support they received and the personalities of their directors. Many enlightened missionaries engaged in serious learning about Aboriginal culture and languages. Some, like Correnderk in Victoria, were happy, productive and economically stable villages until government policy changed and the station was disbanded. While some missionaries treated people well, all were united in their view that until all Aboriginal people became Christians they had no hope of civilization.⁴³

Some Aboriginal people rejected Christianity and maintained their own traditional practice and belief. Many others took the new and combined it with their traditional knowledge and spiritual practice syncretising beliefs. Syncretism in religion means reconciling disparate or contrary beliefs and practices, which encourages an inclusive approach to other faiths. However, in these pooled beliefs and practices traditional systems remained paramount.

On many missions, the missionaries are reported as having brought a sense of certainty, order, direction, clarity, security and discipline, as well as the practice of expectation and reward –

albeit within a wider social context of dispossession.⁴⁴ These missionaries were, and for some are still, regarded warmly and with loyalty by Aboriginal people. The mission provided an order that gave dispossessed people refuge and reinforced their sense of community. Despite the enforced control and social engineering of the mission era, there is evidence that under the missionary regime many Aboriginal people were protected from external violence, experienced less alcohol-related violence and had improved health.⁴⁵

Yet nearly all missions established in the 19th century or the first half of the 20th century actively participated in the separation of children from their families. Some missions were used as a repository for children said to be neglected but while children often were in need, they were more frequently removed simply because they were Aboriginal children of mixed descent. Depending on the place and the people in charge the treatment was sometimes physically cruel and authoritarian.⁴⁶

Throughout the post-colonial period after the Second World War churches began to re-evaluate their work and hand back mission lands and properties to Indigenous people. In the late 1970s, Yolngu Christians combined Indigenous cultural and spiritual practices with religious expression influenced by Black American Revivalism. In the Elcho Island revival both Yolngu pastors and non-Yolngu missionaries led a series of revivalist crusades across Australia.⁴⁷ At around this time, the leaders of the Aborigines Inland Mission and the United Aborigines Mission rejected white control of mission churches and formed the Aboriginal Evangelical Fellowship that still operates today.

Today the missions' era is remembered with mixed emotions. For some it is seen as the 'golden age' when community life was more stable and disciplined. For others it is remembered through intolerable grief and pain.⁴⁸

The impact of the missionaries in the Torres Strait

Unlike the Aboriginal peoples of Australia, Torres Strait Islanders responded both quickly and positively to the arrival of missionaries. The London Missionary Society arrived at Darnley Island in 1871 on their way from the Loyalty Islands to New Guinea. Soon after, pastors from the Pacific Islands were placed in the Torres Strait. Within a few years, the Torres Strait Islanders were helping to build churches located in important positions near the beaches. The Islanders made land available for churches and mission houses, raised money and offered their labour.⁴⁹

Nonie Sharp suggests several reasons why the people of the Torres Strait adopted Christianity so quickly. First, the 'coloured missionaries' from the South Seas understood many Torres Strait Islander traditions and social norms, such as the importance of reciprocity in social life. The South Seas missionaries had many customs similar to those of the Torres Strait, and were able to convey the meaning of the scriptures more effectively to the Torres Strait Islanders. Second, the missionaries came at a time of tragedy and misfortune, making the utopian promises they offered more appealing to the Torres Strait Islanders. On some of the islands where the missionaries arrived, the population post-invasion had halved, due to the impact of disease. Third, Sharp suggests that along with religion, the missionaries brought new knowledge and promises of a new way of life. At Murray Island, the people acquired new skills in making boats and smithing.⁵⁰ The London Missionary Society also commanded that the masks, divinatory skulls, sacred places and shrines be destroyed. By the time the 20th century arrived, the Islanders had given up the observable customs the missionaries found distasteful and appalling.

However, the Torres Strait Islanders did not dismiss their former religious practices. Martin Nakata notes that although religious practice was completely transformed, Torres Strait Islanders maintained connections with their histories and narratives of who and what they were.

*The vibrancy of contemporary Islander customary practices is testimony to the practice of continuing on our own path while reconstructing, renewing and regenerating familiar forms with alien content whether these alien forms were coercively imposed or taken up voluntarily.*⁵¹

Torres Strait Islanders made practical choices and judgments—‘they yielded, compromised, embraced and rejected’. Simultaneously, they found ways of maintaining themselves and their culture in the circumstances. Traditional Torres Strait Islander spirituality and religion continues today alongside commitment to Christianity. The practice of ‘superstitious beliefs’ and ‘magic’ are ongoing, Islanders are still selected to be bearers of traditional knowledge, and knowledge is still passed down as gifts.⁵²

The early influence of Islam on the spiritual beliefs of Indigenous Australians

Indigenous Australians were exposed to the teachings of Islam before the Christian missionaries arrived on the Australian continent. Prior to arrival of Europeans in Australia, Maccassan traders visited the coast of northern Australia for hundreds of years to fish for trepang or sea cucumber, valued in China for cooking and medicine. Each year from the early 1600s to 1906, around a thousand traders voyaged to the northern Australia.⁵³ The exchange with Maccassan traders over a 300-year period greatly influenced the coastal societies of Arnhem Land, the Kimberly and the Gulf of Carpentaria.⁵⁴ Maccassan words are still evident in the Aboriginal languages of northern Australia today and Maccassan names have been given to particular places. Ochre paintings in rock-shelters in north-east Arnhem Land depict Maccassan smoke houses (trepang processing sites) and praus (Maccassan boats).⁵⁵

As well as in art and language, Maccassan traders had a spiritual influence on the Aboriginal people of Northern Australia. Elements of their Muslim faith were adopted into traditional spiritual beliefs. For example, the Aboriginal people of Elcho Island in north-east Arnhem Land adopted a ‘Dreaming’ creation figure, Walitha’walitha, also known as Allah.⁵⁶ The ceremony of Warramu, a mortuary ritual that is still performed in Arnhem Land today, tells of the story of Walitha’walitha coming down to earth to restore peace and harmony. However, according to the anthropologist Ian McIntosh, belief in Walitha’walitha was not seen to be the same as believing in Islam. Rather, aspects of Islam were adopted to suit the needs of the Aboriginal people of Elcho Island.⁵⁷

Indigenous people were also exposed to Islam through the ‘Afghan’ cameleers who came to Australia from the Indian sub-continent. Camels were brought to Australia because they were thought to be very good transport animals in the desert areas where horses were failing. The ‘Afghans’ came as contracted labour and serviced the whole interior of the Australian continent from about the 1860s to the 1920s, playing a major role in the development of the rail link between Alice Springs and Port Augusta. Ghan towns were established along the railway, often with a mosque constructed from corrugated iron.

The cameleers did not bring wives to Australia, and many married local Indigenous women.⁵⁸ However, second generation ‘Afghan’ camel men tended to quickly adopt Australian ways. According to the historian Christine Stevens, as the cameleers were frequently away from home and it was often left to their Aboriginal wives to pass on the teachings of Islam to the

next generation.⁵⁹ By the 1920s and 1930s, many of the sons of the original camel men wore the clothes of the bush and hats instead of turbans.⁶⁰ Yet descendants of the cameleers continue to be involved in Islamic communities across Australia.⁶¹

Social policy, Indigenous culture and religious expression

Throughout colonial history, governments applied social policies and laws that impacted upon Indigenous people and their freedom of cultural and religious expression. The first imposition was based on the legal fiction that Australia was unoccupied, terra nullius, and this resulted in the beginning of the dispossession of Aboriginal land and the loss of sacred sites, knowledge and religious traditions. An outline of key policy and legislative changes form an inexorable context against which Indigenous culture and spiritual belief has survived since colonisation.

Every state passed protection acts following Victoria's Aboriginal Protection Act in 1869. By the 19th century each of the six colonies had developed its own mechanisms for dealing with Aboriginal people. These set Indigenous people apart from the larger population in the name of 'protection'. Reserves of land were set aside to gather together and supervise Aboriginal people. By 1881 New South Wales had an Aboriginal protector and later a board for the protection of Aborigines, and other colonies followed suit. They operated until the second half of the 20th century. A new law in 1915 in NSW gave the board the right to assume control and custody of Aboriginal children and to remove them to such care and control as it thought best. By 1940 the NSW board was reorganised into the Aborigines Welfare Board that controlled Aboriginal lives in NSW until 1969. The effect of these laws left those on reserves as wards of the state with members of the protection boards as their legal guardians.

While protection may have been the main aim of the acts, in practice, the boards were given complete power and control over the lives of the Aboriginal people under their care. In many cases, the protection boards virtually abrogated their responsibility, handing the operation of some reserves over to missions. Through these legal and administrative mechanisms, colonial governments controlled the lives of Aboriginal people and often curtailed religious and cultural practice restricting the speaking of language or the performance of ceremony.⁶²

In the early years of the 20th century, the rationale for Aboriginal policy continued to be the 'protection' of Indigenous Australians against violence and exploitation but from the 1930s to about 1960 'assimilation' became the declared goal of Commonwealth and state governments. The aim of assimilation was to fully integrate Indigenous Australians into the mainstream community. While the aim of the policies (protection and assimilation) differed, they both entailed Indigenous peoples relinquishing their cultural traditions and practices.⁶³ In 1967, a constitutional amendment referendum was passed deleting the two exclusionary references to Aborigines from the Australian Constitution. The success of the referendum opened up the possibility of the Commonwealth Government, rather than States becoming more directly involved in policy affecting Aboriginal people on a national scale. An office of Aboriginal Affairs was established and assimilation was discarded in favour of integration, though the difference this signified is somewhat unclear.⁶⁴

By the 1970s the Federal Government approach to Aboriginal people underwent radical change. In 1972 the Whitlam Labor Government adopted 'self-determination' as the driving force of Aboriginal policy. The government declared it would restore to Aboriginal and Torres Strait Islander people the power to determine their own futures and ways of life. It established a Department of Aboriginal Affairs and a National Aboriginal Consultative Council, composed of elected Indigenous people from around the country. In 1979 the Aboriginal Treaty Committee first raised the call for a treaty and sovereignty and this issue

remains unrealized within Australia today.⁶⁵

By the early 1980s Commonwealth and state governments were increasingly providing special Aboriginal assistance through a diverse range of programs.⁶⁶ The policy of self-determination ushered in an era of cultural renewal, allowing Indigenous people to practise their spiritual and cultural traditions if they chose to do so. With this came an increased acceptance by the wider population of the uniqueness and importance of Indigenous cultures.

Between the period 1972–90 many relatively short-lived bodies and agencies were involved in policy making in Indigenous Affairs. In 1990 the Aboriginal and Torres Strait Islander Commission (ATSIC) was formed, only to be abolished by 2004 being labelled by both government and opposition as a bold experiment in government-sponsored Indigenous elected representative structures.⁶⁷ In 2009 the Rudd Government announced that a new Aboriginal and Torres Strait Islander representative body to be known as the National Congress of Australia's First Peoples would be established. The body will play a key role in the Government's commitment to resetting the relationship with Indigenous peoples.

Between 2001 and 2007 Indigenous public policy debate focused on whether the reconciliation process over-emphasised symbolic reconciliation—Indigenous rights, stolen generations, deaths in custody, and the invalid alienation of land and resources—or underemphasised practical reconciliation—that is, improving the health, housing, education and employment of Indigenous Australians. That policy debate continues and has a strong ideological foundation.⁶⁸ There are two criticisms of practical reconciliation that have been made. The first is that 'practical reconciliation' has not led to many practical improvements but has meant more funding for 'mainstream' agencies rather than for services run by and for Indigenous people. In Australia the policy of practical reconciliation has seen the gap between health, housing and education improve only slightly over the last few years. In countries like New Zealand and Canada there have been much better improvements, more quickly, where the government has worked in partnership and supported Indigenous people to run their own affairs. The second criticism is that it is important to deal with symbolic issues as well as practical ones. Symbolic issues include things like an apology to the Stolen Generations.

In the late 80s and early 90s the inclusion of Indigenous people in the Australian welfare state began to raise criticisms from both Indigenous and non-Indigenous people and early in the 21st century a discourse of Indigenous 'disadvantage' was prolific. Numerous issues surfaced provoking further social policy discussion and solutions: welfare dependency, community autonomy, organisational corruption, racially differentiated rates of disease and life expectancy, poor school attendance, high unemployment, substance and alcohol abuse, violence against women, child sexual abuse, support for outstations, gang warfare.⁶⁹ This culminated in the Howard Government's Northern Territory Emergency Response (The Intervention) in 2007. The Intervention constituted a package of changes to welfare provision, law enforcement and land tenure, among other measures.

The Intervention has elicited the full spectrum of responses from religious and welfare organisations. Some aspects were welcomed and others were strongly criticised from both within the Aboriginal community and outside it. Many Aboriginal people felt that their culture was being held responsible for problems caused by many years of inadequate government expenditure on housing, education and other services and identified the measures as discriminatory. Graeme Mundine, the head of the National Council of Churches in Australia, commented that 'any legislation that can only exist if the Racial Discrimination Act is suspended has fundamental flaws'.⁷⁰

In the 20th century, Torres Strait Islander interaction and freedom significantly disrupted by the Queensland government's imposition of the Aboriginals Protection and Restriction of the Sale of Opium Act 1897 which, after 1904, was extended to include Torres Strait Islanders. From this time until the mid-1960s when repressive Acts were repealed, Islanders lived under the control of a government-appointed Protector. Many lost their civil rights, including sovereignty over their own islands, some of which were declared 'Aboriginal Reserves'. Islanders were required to obtain permits to visit the mainland or to travel within the islands. When Islanders regained their freedom of movement, many settled in mainland Australia where they sought employment and a higher standard of education for their children. The two main Torres Strait populations formed on the mainland in the communities of Seisia and Bamaga on Cape York, where Islander culture and identity remain strong. Despite the various outside influences that impacted upon Islanders, their languages, dances, songs, stories and spiritual beliefs remain integral to the maintenance of their cultural heritage.⁷¹

Although the history of colonisation in the Torres Strait is not characterised by dispossession and removal to the same extent as occurred elsewhere in Australia, Islanders were subjected to the surveillance and regulation of the state and suffered a great loss of political and personal autonomy and dignity as a result.⁷² This history of government policy in the Torres Strait can be divided into three periods. In the first period until 1904, Islanders were governed under a form of indirect rule. An island leader or mamus was directly responsible to the Government Resident on Thursday Island and could select his own 'island police'. Consequently, the government had a direct avenue for supervising daily life in the Torres Strait.

In the second period from 1904 until the 1980s, Torres Strait Islanders were subject to government policies characterised by paternalistic exclusion. The government controlled labour and finances, limited freedom of movement and restricted consorting with others. Islanders were punished harshly for small transgressions—with punishments such as head shaving and the use of stocks for public shaming. Some gains were made during the Maritime Strike of 1936, in which Islanders refused to work on government boats unless a list of grievances were addressed. However, the government continued to work through the Island Council system to influence and coerce the people.⁷³ Soft control exercised through the Island Councils was effective but in sharp contrast to the government's overtly controlling administration of Aboriginal reserves.⁷⁴

From World War II until the early 1980s was the third phase, labelled by Nonie Sharp as 'controlled integration'. Government administration combined the labour needs of post-World War II expansion with continuing paternalist segregation.⁷⁵ Islanders were allowed to move from the Torres Strait to the mainland to fill labour shortages, yet still required permission to move. Permission depended largely on labour needs.⁷⁶

Despite controlling government policies, Torres Strait Islanders retained their identities and maintained spiritual traditions. The Mabo case illustrates the continuity of traditional law and custom. When the Supreme Court went to Mer in 1989, witnesses from Murray Island described a fundamental continuity between the present and the past. The judge accepted the claim that the system of land tenure was a continuing and enduring one and concluded that Malo's Law demonstrated social attitudes deeply imbued in the culture of Murray Islanders.⁷⁷ While government policy in the Torres Strait stripped away much control and independence, Torres Strait Islander cultural and religious traditions have been adapted and maintained.

Government policy has had a profound impact on Indigenous culture. The policies of protection and assimilation as expressed in the various state and territory legislation and

policies up until the mid 20th century overwhelmingly discouraged or prohibited traditional religious and cultural practices. During this period, an enormous amount of knowledge was lost. In the relatively short period of self-determination, Indigenous culture including religious and spiritual belief has been recognised and celebrated. Yet considerable barriers persist to the full expression of cultural and spiritual belief. These barriers include Indigenous access to traditional land and the loss of Indigenous languages and the appropriation of cultural and intellectual property. That spiritual and religious traditions have survived is testament to the strength and resilience of Aboriginal and Torres Strait Islander cultures.

The spiritual and religious beliefs of Indigenous Australians in the 21st century

In 2006, 2.4% of the population (or 455,000 people) were Indigenous Australians. Of these, 89.6% were Aboriginal, 6.5% were Torres Strait Islander and 3.9% were both Aboriginal and Torres Strait Islander.⁷⁸

A question on religious affiliation has been included in all Australian censuses since 1911, but answering this question has been optional. In the 2006 Census, 13% of Indigenous people did not answer the question compared with 7% of the non-Indigenous population. Of those Indigenous people who responded to the question 24% reported they had no religious affiliation compared with 21% of the non-Indigenous population.⁷⁹

In the 2006 Census only 1.1% of Indigenous people (5,210) reported affiliation with an Australian Aboriginal Traditional Religion (Table 1) with affiliation being highest in very remote areas.⁸⁰ Between 1991 and 2006 Aboriginal Traditional Religions increased by 24.1%. However, it is difficult to gauge if this figure accurately reflects the number of people who practice traditional religion and spirituality across Australia today. Gary Bouma has noted that the options made available by the census do not relate well to Indigenous spirituality.⁸¹ It is possible that Aboriginal and Torres Strait Islander people identify as Christian or with other religions in the Census, but also maintain traditional cultural and spiritual beliefs and practices. Hence the statistics may or may not reflect actual levels of practice of traditional Indigenous religious beliefs.

The majority of Indigenous people, who did record a religious affiliation in 2006, reported that they were Christian (73%). Of these, approximately one-third reported Anglican and one third Catholic.⁸² Table 2 shows the Christian religions that recorded an increase in numbers of Indigenous people for each of the Censuses from 1991 to 2006 and the per cent growth from 2001–2006. The following Christian religions, while recording an overall increase in Indigenous people over the age of 15 years, had a decline in numbers for the 2006 Census: Uniting Church declined by 5.0%; Lutheran declined by 2.5%; Baptist declined by 2.4%; Aboriginal Evangelical Missions declined by 0.8%; Seventh Day Adventist declined by 0.7% and; Churches of Christ declined by 0.6%.

The variants of Christianity adhered to by Indigenous Australians today often reflect earlier missionary activity. For example, Anglicans are mostly found in eastern Australia and in the Torres Strait where Anglican missions previously existed. Catholics are largely in the west of Australia and in the Tiwi Islands in areas of earlier Catholic missionary activity, but many Catholics are also in the east. Members of the Uniting Church are common in the north of the continent in areas of Methodist and Presbyterian missionary activity while those belonging to an Evangelical church are found mostly in the Western Desert and central north. Lutherans are largely in the south and centre of Australia and Pentecostals are most mostly in the Torres Strait and in coastal Queensland.⁸³

Table 1: ABS Census Data Indigenous Status and Religious Affiliation 1996–2006

Religion	1996	2001	2006	2006 (%)
<i>Christian</i>				
Christian	3149	4780	7454	1.6
Anglican	86603	95182	97748	21.4
Baptist	11062	12046	10872	2.3
Catholic	81364	94494	101101	22.2
Churches of Christ	3472	2913	2743	0.6
Jehovah's Witness	2826	3149	3240	0.7
Latter-day Saints	1336	1295	1431	0.3
Lutheran	10646	11765	11233	2.4
Oriental Christian	22	20	21	0.0*
Orthodox	710	514	702	0.1
Presbyterian & Reformed	6872	6336	6654	1.4
Seventh-day Adventist	3365	3547	3279	0.7
Uniting Church	22424	24379	22848	5.0
Pentecostal	10046	11182	11485	2.5
Aboriginal Evangelical Missions	2776	5561	3761	0.8
Wesleyan Methodist Church	41	45	43	0.0*
Other Protestant	4647	7239	5869	1.2
Other Christian	345	395	480	0.1
<i>Non-Christian</i>				
Buddhism	490	1225	1419	0.3
Hinduism	144	123	116	0.0*
Islam	619	642	1014	0.2
Australian Aboriginal Traditional Religions	7269	4993	5210	1.1
Baha'i	103	147	157	0.0*
Chinese religions	11	24	39	0.0*
Other remaining Religions	34810	58558	66316	14.5
No Religion	60634	65057	93595	20.5
<i>Total</i>	352969	410005	455026	

Data provided by Australian Bureau of Statistics, 2010ⁱ

Table 2: Numbers and percentage growth of Indigenous people in Christian religions 1991–2006

Religion	1991	1996	2001	2006	Percent growth (%)
Catholic	61,635	81,364	94,494	101,101	64.0
Anglican	69,252	86,603	95,182	97,748	41.1
Pentacostal	6,732	10,046	11,182	11,485	70.6
Christian nfd	2,766	3,148	4,780	7,454	169.5
Jehova's Witness	1,942	2,826	3,149	3,240	66.8

Data provided by Australian Bureau of Statistics, 2010ⁱⁱ

The way in which Christianity is expressed by Indigenous Australians varies. Many have adopted Christianity and the belief in the Christian God over traditional beliefs, while others have blended aspects of Christianity with traditional spiritual beliefs. For some, aspects of Christianity correlate indirectly with the Indigenous understanding of a morally interconnected ancestral world. In some ways, when adopting Christianity, these people are practising the very foundations of ancestral law: the rule of caring for and looking after one another.⁸⁴

The historical record reveals copious examples of Aboriginal and Torres Strait Islander peoples bringing together Christian and traditional religious and spiritual practices. For example, in east Arnhem Land in the 1970s Yolngu Christians combined traditional spiritual perspectives with ecstatic forms of expression influenced by Black American Revivalism. The Elcho island revival of 1979 involved both local Yolngu pastors and non-Yolngu missionaries and led to a series of revivalist crusades across Australia.⁸⁵ Also during this time, Indigenous leaders in the Aboriginal Inland Mission and United Aborigines Mission rejected non-Indigenous control of mission churches and formed the Aboriginal Evangelical Fellowship.⁸⁶

Ceremonies in which Aboriginal and Torres Strait Islander bishops were appointed also demonstrate the integration of Christianity and traditional religion. Arthur Malcolm from Yarrabah was appointed the first Aboriginal Anglican Bishop in 1985. At the ceremony, two columns of painted dancers moved forward singing a Gunganjdji welcome. An Aboriginal elder presented him with a woomera, a symbol of his authority among them. Bishop Kawemi Dai was the first Anglican Torres Strait Islander bishop. In a service which combined Anglican and traditional elements, he was consecrated on Thursday Island in 1986.⁸⁷ The centrality of Indigenous culture in these ceremonies highlights the continuing importance of traditional culture and religion alongside of Christian belief and practice.

For many Indigenous people today Christianity offers a way of continuing their own spiritual and cultural beliefs by incorporating it into their existing belief structures. There are aspects of the Christian ritual and the story of the life of Jesus that resonate with many Aboriginal values including the concept of sharing, generosity and fairness.⁸⁸ This is also reflected in the Coming of the Light celebration in the Torres Strait.

Indigenous people and other religions today

Since the 1970s, increased multiculturalism has driven the introduction and growth of many new religions and growing secularisation has reduced affiliations among most Christian denominations. The younger generation is less likely to adopt religious beliefs than their parents or grandparents, and comprise a high proportion of those who stated no religion in the total Australian population.⁸⁹

Recent migration, particularly from Asia and the Middle East, has also contributed to high growth non-Christian religions. Between 1996 and 2006, the number of people affiliated with non-Christian faiths increased and accounted for 5.6% of the total population in 2006. Australia's three most common non-Christian religions at the time of the 2006 Census were Buddhism (accounting for 2.1% of the population), Islam (1.7%) and Hinduism (0.7%).⁹⁰ Within the Indigenous population Buddhism, Islam and Baha'i (see Table 2) recorded the largest increases in numbers for non-Christian religions between 1991 and 2006.⁹¹

Today, Indigenous people are embracing religions including Islam, Baha'i and New Age beliefs, while maintaining Indigenous spiritual and religious traditions.⁹² Indigenous Muslims, include recent converts and non-practising descendants of followers of Islam, such

as the people of Arnhem Land with Maccassan ancestry.⁹³ While some Indigenous Muslims have gained their faith from their Muslim ancestors who came to Australia generations ago as cameleers, others have noted that its appeal stems from a shared sense of religious and political persecution, and a shared experience of resistance.^{94 95}

Eugenia Flynn, a convert to Islam explained how her religious beliefs fit with her Aboriginal Culture⁹⁶.

For me it comes in the place of knowing two things really, really well. You really need to know Islam the religion very, very well and you need to know your Aboriginal spirituality very well in order to let those things gel. There are some things that conflict, but because I have knowledge of both of those things I'M able to resolve them in a way that makes me satisfied... When you contemplate the spirituality of Islam you see the way that it fits together with being spiritually tied to country.

Data from the National Aboriginal and Torres Strait Islander Survey indicates that traditional culture is still important to many Indigenous people and suggests that the census data does not provide sufficient information to understand the complexity of traditional religion or spiritual in Australia.⁹⁷ The survey, conducted by the Australian Bureau of Statistics, is self-assessed by Aboriginal and Torres Strait Islander people and presents views on topics such as health, education and social networks and support. The level of involvement in Aboriginal or Torres Strait Islander cultural events, ceremonies or organisations helps to provide an indication of a person's level of cultural attachment. This might involve cultural events or activities, such as festivals involving arts, music dance or men or women's business. In 2008, over seven in ten (73%) Indigenous children aged 4–14 years and over six-in-ten (63%) Indigenous people aged 15 years and over were involved in cultural events, ceremonies or organisations.⁹⁸ The survey found that for Indigenous people aged 15 years and over, 40% spoke, or partially spoke, an Aboriginal or Torres Strait Islander language and that 62% identified with a clan, tribal or language group. For those under 15 years of age, 31% spent at least one day a week with an Indigenous leader or elder.

Intermarriage between Indigenous and non-Indigenous people may also influence religious beliefs, affiliation and identity. The proportion of couples in which there are an Indigenous and non-Indigenous partner rose from 46% in 1986 to 71% in 2006. In urban areas such as Sydney 83.9% of Indigenous women and 82% of Indigenous men had a non-Indigenous partner while the remote areas had the lowest figures of intermarriage at around 8.5% for females and 4% for males (Sutton, 2009:158–159). It is difficult to determine how such large scale social integration influences cultural identity or spiritual beliefs or over time, how non-indigenous people will become incrementally Aboriginalised and aware of Indigenous culture and beliefs.

Many Aboriginal people of mixed ancestry experience their Aboriginality as under challenge from both non-Indigenous and Indigenous people. Being light-skinned is assumed to be associated with a less 'authentic' culture or identity. In the public discourse mixed ancestry and urban Aboriginality is frequently referred to as 'deplete', 'unauthentic,' 'culturally bereft', and only people who live in remote communities or homelands are assumed to maintain and practice traditional religion or culture.⁹⁹ To the contrary, the maintenance and practice of core spiritual and cultural practices and beliefs remain strong across a range of urban, regional and remote communities and it is this enduring understanding of culture and spirituality that has enabled Aboriginal and Torres Strait Islander people to survive the dispossession and destruction of colonisation. Systems of family and kinship, values of caring

and sharing, obligation and reciprocity, a reverence for life, place and an understanding of the interconnectedness remain representative of many urbanised contemporary Aboriginal people.¹⁰⁰ Tom Calma has argued that Aboriginal people in urban areas have a stronger need to assert their identity than their traditional counterparts, whose identity is less often challenges.¹⁰¹

Noel Pearson suggests that it is not possible to understand traditional Aboriginal identity in a singular reductive way. Pearson describes the multiple dimensions of his identity as including the traditional kinship layers of Guugu Warra and Guggu Yimithirr (on his fathers side) and Kuku Yalangi (on his mother's side). He considers himself a Queenslander, a Murri as well as Bama, which describes Aboriginal people from across the Cape York Peninsula. Layered on top of these traditional and cultural identities are the identities of mission raised, Lutheran, private school educated, lawyer and lover of rugby union. Pearson crosses the border between urban and remote, traditional and contemporary identities.¹⁰²

In contemporary Australia, religions and spiritual beliefs, traditional and new help shape and influence postcolonial indigeneity. While there are enduring core elements, beliefs and practices associated with 'Dreaming', Aboriginal religions and spirituality are not static. The challenge for contemporary Australia is to support Aboriginal and Torres Strait Islander people's right to self-determination and the right to define and control culture, identity and the religious or spiritual expression and belief.

The remainder of this discussion paper examines the connections between religious or spiritual belief and its relationship to other areas of life including land, health, social organisation, ritual and ceremony, art and language.

4. Indigenous spirituality and connection to land and sea

Key issues

Everything about Indigenous society is inextricably woven with, and connected to, the land or sea. Understanding the importance of this connection is important for all Australians if freedom of religion is to be realised for Indigenous Australians.

Historically, Australian law failed to recognise the land and sea rights of Australia's Indigenous peoples. Native title legislation recognizes the traditional ownership of land and waters that have always belonged to Aboriginal people according to their traditions, laws and customs

The movement of people from their traditional lands has had and continues to have significant implications for the practice of traditional cultural ceremonies and responsibilities to country set out in traditional Law.

Native title and land claims have offered Aboriginal and Torres Strait Islander communities a greater degree of spiritual, as well as political and economic, autonomy. However, the system is still subject to substantial theoretical and practical flaws. Improving the processes of making native title and land claims should be seen as critical in strengthening cultural heritage protection and freedom of spiritual belief.

To understand our law, our culture and our relationship to the physical and spiritual world, you must begin with the land. Everything about Aboriginal society is inextricably woven with, and connected to, the land. Culture is the land, the land and spirituality of the people, our cultural beliefs or reason for existence is the land. You take that away and you take away our reason for existence. We have grown the land up. We are dancing, singing and painting for the land. We are celebrating the land. Removed from the lands, we are literally removed from ourselves.¹⁰³

The connection to land and sea plays an important part in Aboriginal and Torres Strait Islander spirituality and religion and the Australian continent is covered with evidence of the activities of the creator ancestral beings. These ancestral beings shaped the land and sea, created the first humans and laid down the law and language of the First Nations.¹⁰⁴ Those laws are characterised by a strong spiritual connection to ‘country’ and these traditional laws and customs include:

- caring for the natural environment and for places of significance
- performing ceremonies and rituals
- collecting food by hunting, fishing and gathering
- providing education and passing on law and custom through stories, art, song and dance.¹⁰⁵

For example, the traditional law and religion of Anangu in Central Australia is called Tjukurrpa and it is the foundation of their society. Tjukurrpa explains how to care for country and people.¹⁰⁶ Uluru is a highly significant site in Tjukurrpa. A number of important creation journeys coming from the north, south, east and west meet at Uluru and explain its physical shape and form. The activities and travels of the ancestral beings in these creation journeys are told through stories, sacred sites and ceremonies, and they explain the rules for social life and living on country.¹⁰⁷ The return of Uluru to its traditional owners in 1985 was important for ensuring the ongoing practice of Tjukurrpa, the traditional religion and law of Anangu. While land rights are of great economic and political significance to Aboriginal and Torres Strait Islander peoples, they also help Indigenous communities to protect their spiritual practices and cultural values for future generations. Land and sea rights are therefore inseparable from traditional spiritual practice.¹⁰⁸

The significance of land rights and native title in Australia

Historically, Australian law failed to recognise the land and sea rights of Australia’s Indigenous peoples. Since the arrival of Europeans, the first Australians fought to have such rights acknowledged. Native title is the name Australian law gives to the traditional ownership of land and waters that have always belonged to Aboriginal people according to their traditions, laws and customs. These rights are different to and separate from the statutory right of Aboriginal Land Councils to make claims for land under the State or Commonwealth Land Rights Acts. Native title has been codified by the Commonwealth Native Title Act 1993 although the definition of native title is not determined by the Act.

Historians have extensively documented a long and sustained resistance to the dispossession of land and the failed recognition of land occupation.¹⁰⁹ Attempts to use the law involved petitioning the Crown and Parliament including the bark petition delivered to the House of Representatives by the Yolngu people of Yirrkala in north-east Arnhem Land in 1963.¹¹⁰ Although the petition was unsuccessful the Yirrkala petition was the precursor to the Gove case in 1968 (*Millirrpum v. Nabalco Pty Ltd and the Commonwealth* (1971)). The aim was to prevent a bauxite mine on the land of the Yolngu people at Yirrkala, north-eastern Arnhem Land. The Yolngu claimed that traditional customary rights to land survived to the present

and that they had a right to stop mining on the land. Despite evidence from Indigenous witnesses and anthropological evidence of the continuation of traditional rights, Justice Blackburn ruled that the Yolgnu people could not prevent mining because native title was not part of Australian law at that time. Under Australian law, he ruled, land rights had not survived the assertion of British sovereignty or the grant of subsequent leases or reserves. Further to this, Justice Blackburn held that the Yolgnu had not demonstrated a relationship to land that was of a 'proprietary nature': 'There is little resemblance between property, as our law... understands the term ...' The Milirrpum case highlighted the dissonance between what was thought to be the established legal position of the time and the facts of Aboriginal connection to land.¹¹¹

In response to the decision on the Gove case, the Federal Government commissioned the Counsel for the plaintiffs in the case, A.E. Woodward, to inquire into Aboriginal land rights. The findings of this inquiry formed the basis for the introduction of the Aboriginal Land Rights (Northern Territory) Act 1976. This became the first legislation in Australia to establish a process by which traditional owners could claim areas of land and later provided for large tracts of land to Aboriginal people in the Northern Territory.^{112, 113} After the passage of the Aboriginal Land Rights Act of the Northern Territory, land councils were established and people began to move back to established outstations or homelands on ancestral lands leaving towns and mission settlements. In the early 1970s the Commonwealth Government gave establishment grants of up to \$10 000 to traditional owner groups wanting to return to their country. This was done on the proviso that both the Commonwealth and territory governments fulfilled their duties to provide equitable levels of services.¹¹⁴ The movement of people 'back to country' was an Indigenous response to problems about alcohol, violence and poor living conditions that characterised many of the artificially created townships of the assimilation era.

Almost 40 years later the reverse is taking place with over 12 000 people live on more than 1000 outstations or homelands. Those who retain links to ancestral country try to sustain culture, kinship and the spirit of their ancestors.¹¹⁵ In the last 30 years outstations have generally received extremely limited services and in 2008 the Northern Territory Government announced a shift in policy, refusing to fund the creation of any new Aboriginal outstations/homelands. Instead they proposed to establish 20 hub communities funded to provide schools, hospitals and other services. Such a policy potentially forces people away from homelands and curtails people's capacity to maintain connections with country and spiritual practice. This may also have implications for native title claims. In 2009 the Australian Human Rights Commission Social Justice Report described homelands as providing social, spiritual, cultural, health and economic benefits to residents. Homelands are located on ancestral lands with complex cultural, environmental obligations and spiritual significance to the people who live there and provide for the opportunity for self-determination and a revitalisation of cultural traditions and customs.

Throughout the second half of the twentieth century, the land rights movement continued to be a major focus of Aboriginal political activism. In the decision of the High Court of Australia in the Mabo 1992 case, the 'spiritual attachment' of Aboriginal people to their land was formally recognised as the basis for 'native title to land'.¹¹⁶ The Mabo judgment held that the Merriam people of the Murray Islands had native title to land that had been taken from them during colonisation. The case determined that native title continues where Aboriginal people can demonstrate a continuing traditional connection to the land and where the title has not been extinguished or supplanted.¹¹⁷ As a result of the 1992 decision, the government enacted the *Native Title Act 1993* to provide a system for Indigenous people to claim native title. *The Native Title Act 1993* also allowed for States and Territories to develop alternative

native title regimes.

The Act stated that if native Australians could demonstrate a traditional connection with their land, they could claim native title provided it was land not previously sold to anyone else.

Such a connection to country may include:

- occupation/residence by claimants
- maintaining a nomadic way of life on the land
- hunting, gathering and obtaining sustenance from the land, holding ceremonies and conducting traditional Law business
- caring for the land and particular sites of significance.¹¹⁸

A number of difficulties are apparent here including that large groups of people had been dislocated from their homelands for a long time. The status of pastoral land leased from the state was also unclear. Pastoral leased land amounted to 40–45% of the Australian continental land mass. The Act also left unclear whether pastoral leases extinguish native title in the same way that a grant of freehold does. The grant of freehold erased native title because it allows the owner exclusive possession.

To test the pastoral issue, the Wik people of Cape York in far North Queensland took their case to court and in 1996. In this case the High Court ruled that native title and pastoral leases could co-exist. However, the decision fuelled controversy over land management resulting in the Howard Government introducing the ‘10 point plan’, formally known as the Native Title Amendment Bill 1997 (and since passed in parliament as the *Native Title Amendment Act 1998*). The practical effect of the Amendment Bill was a winding back of native title. Professor Mick Dodson argued the ‘10 point plan’ wrecked the native title aspirations of Aboriginal people.¹¹⁹ Under the old Act, Aboriginal people had a chance to negotiate with mining companies and pastoralists on what happened to land that was subject to native title. Under the new Act this was substantially weakened. Regarding native title over the sea, in 2001 the High Court found that only non-exclusive native title rights can exist over the sea, as common law rights of navigation and fishing extinguishes any exclusive native title rights for the sea.¹²⁰

Continuing problems in the land rights and native title systems

The deeply seated secularism by which the Australian legal system is characterised may have contributed to the difficulties in recognising Aboriginal and Torres Strait Islander rights in areas such as land claims and cultural heritage protection.¹²¹ Maddox claimed that the tendency in the legal history of land claims and heritage protection was to react to Indigenous religious traditions in four ways:

- ignoring the religious elements of the tradition by subsuming them within the broader concepts of culture or custom
- cherishing or emphasising the unfamiliar as an exotic religious form
- decrying, criticising or trivialising any apparent irrationality of unfamiliar religious practice
- interpreting or reframing the unfamiliar within a framework of the familiar.¹²²

While the s. 116 of the Constitution offers some protections against the establishment of laws of religious imposition and observance, it also limits state support for particular religious traditions. It has been suggested that these provisions should be supplemented by legislation, for example, to actively encourage tolerance or to explicitly protect religious minorities from discrimination or disadvantage.¹²³ Consideration should be given to whether this

might be achieved through a Federal Religious Freedom Act or a Bill of Rights. Debates about these issues are dealt with in more detail in the AHRC Freedom of Religion and Belief in the 21st Century Australia 2011 Research Report. The implications of such changes for minority religious/ spiritual practices of Indigenous people have not been explored.

In a speech in 2008, Justice French discussed some of the practical problems in the current native title system. He noted how native title litigation under the substantive law imposes heavy human and financial burdens on the principal parties involved. Justice French called for governments to consider three modest proposals that might begin to lift that burden. The first is a change to allow a statement of facts, agreed between the relevant state government and applicants for a native title determination, to be relied upon by the court in making a consent determination. The second is a change to provide for a presumption in favour of the existence of native title rights and interests if certain conditions are satisfied. The third is the introduction of a provision requiring historical extinguishment to be disregarded over certain classes of land and waters when the applicants and the relevant state or territory government have agreed that it should.¹²⁴ Such provisions could greatly improve the resolution of currently lengthy native title determinations that will only become more difficult as Elders become older and less able to give evidence or pass away.

Galarrwuy Yunupingu has stated, ‘our spirit and our belonging comes from this country’.¹²⁵ At the heart of the struggle for land and sea rights remains the recognition that contemporary Aboriginal and Torres Strait Islander peoples’ ongoing connection to land and sea are essential to the ongoing survival of culture, spiritual belief and practice. Vicki Grieves has argued that the call for Aboriginal land rights continues to be misunderstood and that Aboriginal people do not justify land rights in terms of economy, accommodation or possession.

*Rather land rights represent a whole set of responsibilities, among which is the obligation to preserve the unique essence of their Aboriginal Law. Aborigines have the responsibility to be custodians of land, sea and sky. They must remain accountable to the ecological world, which accepts Indigenous intrusion and use of the ecology only on sound practices of interaction with the spirit of the land, manifested in strict rules of respect and tradition.*¹²⁶

Native title and land claims have offered Aboriginal and Torres Strait Islander communities a greater degree of spiritual, as well as political and economic, autonomy. However, the system is still subject to substantial theoretical and practical flaws. Improving the processes of making native title and land claims should be seen as critical in strengthening cultural heritage protection and freedom of spiritual belief.

5. Indigenous spirituality, health and wellbeing

Key issues

The Indigenous concept of health is holistic with spirituality being a central aspect of wellbeing. For many Aboriginal people, ill-health is more than physical illness; it is a manifestation of other factors, including spiritual and emotional alienation from land, family and culture.

The provision of Aboriginal controlled holistic health services for Indigenous people is important to ensure culturally appropriate service delivery that recognises the relationship between wellbeing and spirituality.

Traditional Indigenous healers continue to practice within Indigenous communities incorporating spiritual techniques and making an important contribution to health and wellbeing.

Cultural awareness programs that recognise the centrality of spirituality for non-indigenous health professionals are essential for the delivery of culturally sensitive health care provision to Aboriginal and Torres Strait Islander people.

Policies that are aimed at centralising populations and services into large remote townships should be reconsidered given the important ecological and health gains that living in homelands can deliver.

Increasing the number of Indigenous Australian medical, nursing and allied health professionals should be a priority for improving culturally sensitive health care for Aboriginal and Torres Strait Islander people.

In 1990 the National Aboriginal Health Strategy developed a now widely accepted holistic definition of health as perceived by Aboriginal people:¹²⁷

Health does not just mean the physical wellbeing of the individual but refers to the social, emotional, spiritual and cultural wellbeing of the whole community. This is a whole of life view and includes the cyclical concept of life-death-life.

The concept of wellbeing is central in this definition. Grieves argues that people's cultural practices, including spirituality are central to wellbeing. The word *punyu*, from the language of the Ngarinman from the Northern Territory, sometimes translated as wellbeing, explains the concept and functions of wellbeing. *Punyu* encompasses person and country and is associated with being strong, happy, knowledgeable, socially responsible (to take care) beautiful, clean, safe both in the sense of being within the lore and in the sense of being cared for.¹²⁸

For many Aboriginal people, ill-health is more than physical illness; it is a manifestation of other factors, including spiritual and emotional alienation from land, family and culture. In traditional Aboriginal culture land is the crux of Aboriginal health and wellbeing.¹²⁹ Research published in the Medical Journal of Australia has shown that Northern Territory Aboriginal people who participate in 'caring for country' and practise traditional or semi-traditional lifestyles experience half the mortality rate of other Northern Territory Aboriginal people and enjoy much better health than those who have moved away from outstations. Social factors were influential in this difference, including connectedness to culture, family, land and opportunities for self-determination.¹³⁰ The policies that are aimed at centralising populations and services into large remote townships while simultaneously promoting Indigenous management of their own lands should be reconsidered given the important ecological and health gains that living in outstations have the potential to deliver.¹³¹

In some parts of remote Australia traditional healers work alongside western medical practitioners, sometimes bringing about positive outcomes and at others engaging in power struggles over status, treatment regimes and belief systems.¹³² Traditional healers in Aboriginal and Torres Strait Islander communities practise using bush medicines and may incorporate metaphysical beliefs as a part of traditional healing. A belief in the power of 'sorcery', 'black magic' or 'spirits' remains in some traditional Aboriginal and Torres Strait

Islander belief systems, where ill health can be attributed to the effects this sorcery.¹³³ Other perceived causes of disease in traditional Aboriginal communities include forced displacement from homelands and failure to follow a customary law.

The Anangu people of Central Australia call their traditional healers ngangkari. Ngangkari are sought for physical, psychological and spiritual problems. Their treatments can involve various magical techniques such as removing objects from people's bodies or the use of culturally appropriate explanations for symptoms and the use of suggestion.

Writing about Ngangkari, Elsie Wanatjura, from the Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council Aboriginal Corporation, describes the role of Ngangkari as spiritual healers:

*Doctors and nurses might wonder why do Anangu keep asking for Ngangkari help when they can access good health clinics these days and they can easily get a quick needle or a tablet? It is because Ngangkari get straight to the problem and give immediate healing. Tablets can't heal the spirit. Ngangkari can. Ngangkari can see right into the spirit and the mind. Ngangkari see right inside the kurun-pa – the spirit – and get straight to the heart of the matter. What is kurun-pa? There is kurun-pa inside you and inside me. It lives inside our bodies giving us life.*¹³⁴

Contemporary Indigenous-controlled holistic health services and healing programs seek to provide culturally sensitive models of care to improve the quality of health care available to Aboriginal people and to promote wellbeing. In 2009 the Australian Government announced the establishment of the Healing Foundation with an allocation of \$26.6 million over four years. The Foundation will help communities and individuals to address trauma, grief and healing needs in Aboriginal and Torres Strait Islander communities, especially the Stolen Generations and their families. Evidence from Australia and internationally indicates that healing is needed to overcome the trauma of removal, the impact of colonisation and associated intergenerational effects. The Foundation will integrate practices that have strong roots in Indigenous traditions, values and culture, while also incorporating Western and mainstream practices.¹³⁵ This kind of support in health and healing programs encourages the maintenance of Indigenous spiritual belief and also ensures that a holistic approach to health is respected.

Where health care services are provided by non-indigenous health professionals within mainstream services, the integration of cultural awareness programs that recognise the centrality of spirituality and culture for Aboriginal and Torres Strait Islander people is an important way to improve service delivery.¹³⁶ There are also well-defined benefits to having Aboriginal health professionals deliver health services to Aboriginal people, such as cultural sensitivity and retention. The incorporation of Aboriginal Health Workers can play an important role in the delivery of basic health services to Aboriginal people in remote communities. As well as providing translation services they frequently act as 'cultural interpreters', entering a professional partnership with traditional healers. This is particularly so in relation to mental health services. Social issues such as dispossession of land, the stolen generation and Aboriginal deaths in custody, have contributed to poor Aboriginal mental health. The issues of acculturation, anomie, the psychology of multiple losses and trauma, breakdown of family structures, substance abuse, the epidemic of suicide and the interface of the socio-political forces with mental health continue to be of significance. No Aboriginal family is unaffected by one or other of these issues.¹³⁷

Increasing the number of Indigenous Australian medical, nursing and allied health professionals should be a priority for improving the health and wellbeing of Aboriginal and Torres Strait Islander people, particularly in rural and remote areas of Australia.

6. Indigenous spirituality, kinship and social organisation

Key issues

Indigenous social organisation and kinship structures are determined by customary Aboriginal Law and its inherent spiritual or religious philosophy.

Central to traditional Aboriginal Law is the responsibility to maintain culture as it has been set down in creation stories.

The Law establishes a complex set of kinship and social arrangements that come with responsibilities and obligations.

Kinship and social structures are central to everyday life as well as religious life. Social organisation is about the basic facts of life, about birth and conception, marriage, kinship and death and all the rituals associated with such events. It is also about cultural identity, continuity and its transmission. It is especially important in issues of land care and responsibility.¹³⁸

The largest traditional social unit in Aboriginal societies is the language group, sometimes described as a tribes. Each language group is comprised of men, women and children who are descendants of the same ancestors, and who occupy particular tracts of land from which food and other resources are obtained. This is a relationship of reciprocal rights and obligations. The language group may be further divided into local descent groups or clans inherited through the father's line, while recognising an ancestral totem that is inherited through the mother.¹³⁹ Each member of a language group is classified into a social group at birth as dictated by its Law. These social divisions are referred to as skin groups and each child is given a skin name, which establishes that child's place within the language group. The simplest classification system is that in which members are divided into alternate generational levels. These categories are endogamous: that is, each person marries another on the same generational level. An example of this type of system is the Pitjantjatjara society of the Western Desert region: its two generational levels are known as Nganantarka (our bone) and Tjanamilytja (their flesh).¹⁴⁰

Another classification system is the moiety system. In this system all life forms, and even inanimate natural phenomena, are divided into two groups. Everything in one moiety has a counterpart in the opposite moiety. An example of a traditional moiety system exists in the Gunditjamarra community of Victoria. In the community the two moieties are Krokitch (white cockatoo) and Kaputch (black cockatoo). Moieties are exogamous: each person in the group marries a person from the opposite moiety. Membership of a moiety is significant in ritual and social interaction within the language group, as well as in the making of appropriate marriages. Further divisions of this system are made when divisions based on moieties and generational systems are combined to make four divisions, a 'section' system is created. Sometimes two of those four sections are divided, creating six divisions: this system exists in the Ngaanyatjarra community of Western Australia. A 'subsection' system is created where four sections are further subdivided to form eight divisions: subsection systems exist in the

Warlpiri community in Central Australia and the Yolgnu community in Arnhem Land.¹⁴¹

Some language groups extend this by having distinct male and female forms, giving a total of sixteen skin names, such as the Pintupi or Warlpiri. While membership in skin groups is ideally based on blood relations, Australian Aboriginal kin systems are classificatory, meaning that even people who are not actual blood relations are assigned to a skin system.

Terminology to describe relations extends beyond blood relations to involve more distant or even unrelated people. First, one has siblings identified as brothers or sisters. Then one's father's brothers (that is, uncles in western systems) are classed also as father and a mother's sister (aunt) as mother. All children of people called mother or father are therefore called brother or sister. An aunt can only be the father's sister, and an uncle only the mother's brother. The only people called 'cousins' are the children of your mother's brother and your father's sister. Aunty and uncle are also terms of address for older people, to whom the speaker may not be related.¹⁴²

However kinship extends beyond biological relatedness as everybody with whom a person comes into contact is called by a kinship term. Social interaction is guided by patterns of behaviour considered appropriate to particular kin relationships. While a person's gender or age are important in determining status, the system of kin relatedness largely dictates the way people behave towards one another and may prescribe relationships of dominance, deference, obligation or equality.¹⁴³

One of the for-most values under Aboriginal Law is the autonomy of individuals and groups. Those who are taught the meaning of creation and the means to ensuring the responsibility is passed down through that Law are the ones to see to that business. It is not appropriate to concern oneself with the business of others. If there are connections and intersections through intermarriage, then there may be opportunity for negotiation and accommodation. It is the responsibility of groups to guard their own affairs, to keep private and secret the knowledge that is there through a spiritual connection. Central to Law is the responsibility to sustain the cultural landscape as it has been set down through the creation stories.¹⁴⁴

This complex kinship structure with its responsibilities and obligations serves a number of important social functions in traditional Aboriginal society including regulating inter-group conflict, controlling social relationships including marriage and providing a strong network of expanded family and kin support. Such a system has ensured cultural continuity so that no one in Aboriginal society is alone in times of sickness, food shortage or domestic difficulty.¹⁴⁵ Although the system has imperfections, it has enabled Aboriginal people to resist and survive the forces of colonization, dispossession and genocide. The highly destructive impact of the removal of Aboriginal children from their families during the era of assimilation becomes all the more apparent with a detailed understanding of the value and importance of kinship systems within traditional Indigenous culture.

7. Indigenous spirituality and contemporary ritual and ceremony

Key issues

Ceremony and ritual maintain links to the Ancestral past and continue to play an important role in contemporary Indigenous communities.

There are strict rules associated with the performance or reproduction of ceremonial practices.

Funerary and burial practices form an important aspect of sorry business marking the stages in the separation of body and spirit. Greater awareness of these practices in workplaces would support an understanding of the need for leave arrangements for Indigenous employees.

Increasing media awareness of the spiritual and cultural practices surrounding death within Indigenous communities remains important in maintaining respect for the spiritual and religious practices of Indigenous people.

An issue of significant concern for Aboriginal people is the repatriation of Aboriginal remains and secret/ sacred objects.

Ceremony and ritual play an important part in traditional Aboriginal and Torres Strait Islander spiritual life and cultural heritage. Ceremonies and rituals continue to be practised in many parts of Australia and may be performed for a broad range of purposes such as entering another person's land or welcome to country. A 'Welcome to Country' is a ceremony where traditional owners, usually elders, welcome people to their land. It is different to an 'acknowledgement of country' that is a way for people to show respect for Aboriginal culture and heritage and the ongoing relationship the traditional owners have with their land. 'Welcome to country' is made through a formal process, determined by an elder and depends on the location of the event and the practice of the Aboriginal community. During a 'Welcome to Country', elders welcome those in attendance. It might involve a speech or a performance or any combination of these.¹⁴⁶

A smoking ceremony (a process in which smoke, usually from burning leaves, is allowed to waft over the deceased's property) forms part of a broader adjustment to loss that may also include anger and suspicion of the intentions of the people who might have caused the death. The smoking ceremony is more broadly used today as a cleansing process for leaving behind troubles and beginning something new.¹⁴⁷ For example, a smoking ceremony was used to mark the Apology to the Stolen Generations at Parliament House, Canberra on 13 February 2008.

Ceremonies may be associated with ancestral stories, rituals for increasing rain, plants and animal foods, fertility and initiation of young people into adulthood, or associated with deaths and burial. Some rituals and ceremony are restricted to women or men only and may be secret /sacred while others are public. Rituals may be practiced during ceremonies that last for days or weeks, with singing and dancing, storytelling, and the display of body decoration and ceremonial objects. During these ceremonies, the stories connected to the Ancestral Beings are told and retold.

All of the symbols of ritual—the words, songs and ritual objects are an outward expression of an inner sacred life. Just as the cross is a symbol of Christianity, so too are there symbols of the divine presence of Ancestral Beings. Sacred ground, emblems, chants, wooden poles, body painting and sacred objects are examples of religious symbols. It is through ritual that people come into direct contact with the spiritual forces that control life.¹⁴⁸

There is a range of rituals practiced by Aboriginal communities. Those associated with death are especially important. The many traditional methods of dealing with bodies of the deceased include burial, cremation, exposure on tree platforms, interment inside a tree or hollow logs and mummification. These rites mark the stages in the separation of body and spirit. Mortuary rituals are performed on the death of a person and may include using body paint, cutting the bereaved body to show grief for the loss (sorry cuts) and songs and dances that will ensure the

person's spirit leaves the area and returns to its birth place, from where it can later be reborn. At death the two types of soul/spirit have different trajectories when leaving the body. One soul/spirit becomes a dangerous ghost that remains near the deceased's body and property. It eventually passes into nonexistence, either by dissolution or by travel to a distant place. Its absence can be marked by destroying or abandoning the deceased's property and prohibiting the use of the deceased person's name for up to two years. The ancestral soul/spirit is eternal. This soul returns to the land and to the sites and ritual objects associated with specific totemic beings.¹⁴⁹ The funerary rites that enact these transitions are often called 'sorry business'. They occur in Aboriginal homelands, camps and houses, as well as in Christian churches because many of the traditional funerary practices have been displaced by Christian burial.

Bereavement is a very important part of Aboriginal culture. Funerals can involve entire communities. The grieving relatives may live in a specially designated area or sorry camp for a period of time. The relatives may cut off their hair or wear white pigment on their faces. The community refrains from using the name of the deceased and photographs or videos of the deceased are destroyed. Reasons for the death are often sought, and this may be attributed to sorcery or blaming another individual. Payback can involve spearing and is still practiced in some areas. Consequently there may be anger, fear of payback or fear of further sorcery during times of sorry business. In these situations the Ngungkari are sometimes sought.¹⁵⁰

In Torres Strait communities, the modern ritual of tombstone opening is based on traditional mortuary rites. In the days before the missionaries arrived, the body of a dead person was placed on a platform that marked the beginning of the two-stage funerary rite. The rite involving a burial and a tombstone unveiling and has continued into the present time.¹⁵¹ The grave is decorated and the headstone is wrapped in cloth. During the ceremony the tombstone is unveiled, marking the end of the period of mourning.¹⁵² A tombstone opening may unite family for months of preparation.¹⁵³

An issue of significant concern for Aboriginal people is the repatriation of Aboriginal remains and secret/ sacred objects. Aboriginal remains were removed from graves and burial sites throughout the 19th century until the late 1940s and illegally exported to France, Holland, Scotland, Germany, Sweden, Ireland, England and the USA.¹⁵⁴ Michael Mansell, Aboriginal lawyer has stated that:

*The damage to the Aboriginal community of having remains [overseas] is astronomical. The spirits of our dead are disturbed by being separated from their bodies. The remains are as important to us as land rights. It's a much more volatile issue, closer to the heart than even getting our land back.*¹⁵⁵

Since 1996, over 1,000 Indigenous remains have been brought back to Australia, however more than 1,000 Indigenous Australian remains still held in museums outside of Australia. In 2009 the Australian Government announced it would overhaul the process for the repatriation of remains from institutions, including establishing a new International Repatriation Advisory Committee. The Committee will provide the Government with advice on of issues such as, reviewing current international repatriation policy and finding a more effective way to deliver on international repatriation.¹⁵⁶

Current barriers to the practice of ritual and funerary customs

The media sometimes infringes Indigenous people's ability to practice spiritual customs following a death. In many areas of Australia, reproducing the names and photographs of deceased people is restricted during mourning. The length of this time varies and is determined by the community. A widespread practice exists in which a deceased person's

name is modified or a circumlocution is used (e.g. ‘the old man who painted’). If the names or images of deceased Indigenous persons are to be used by journalists, written permission should be obtained from the person’s family and/or community. If the mourning period cannot readily be ascertained, using images of recently deceased Aboriginal people should be preceded by an appropriate oral warning.¹⁵⁷ Although these views are articulated in the Commercial Television Industry Code of Practice, the advice is not always followed.¹⁵⁸ Increasing media awareness of the spiritual and cultural practices surrounding a death in an Indigenous community remain important in maintaining respect for the spiritual and religious practices of Indigenous people in Australia.

Many workplaces employing Indigenous staff have appropriate leave arrangements in place to accommodate the time off work needed to attend sorry business. The report ‘Indigenous Australians at Work: Successful Initiatives in Indigenous Employment’ prepared by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs noted that being part of an Indigenous family and community comes with many responsibilities and cultural obligations that non-Indigenous people and employers may not be aware of, or fully understand. The report stated that ‘employers and Indigenous employees both have a responsibility to help each other to understand these, sometimes competing, obligations and reach effective compromises’.¹⁵⁹ Several successful strategies for accommodating cultural leave needs are mentioned, including having family, recreational leave and rostered days off, time in lieu or swapping days off. The report also stated that using a pool of people to meet contractual arrangements provided flexibility to cover sorry leave and ceremonial leave.¹⁶⁰ Submissions to the report noted that Indigenous people living in urban areas may not necessarily have the same cultural obligations as those living a more traditional lifestyle.¹⁶¹

8. Indigenous spirituality and artistic expression

Key issues

Indigenous spiritual and religious traditions are maintained through art forms including painting, design, song and dance.

Protecting Indigenous cultural and intellectual property rights is important to protecting freedom of religious expression.

Indigenous cultural and intellectual property rights are not adequately protected in existing law.

The Aboriginal and Torres Strait Islander understanding of the past before colonisation is expressed not only in language but also through song, performance and art, much of it religious and concerned with sacred stories of ancestral beings. Rock paintings and engravings, carved objects and ancient pathways straddling the continent are evidence of life in Australia before colonisation.¹⁶²

In traditional society, artistic expression renews the relationship between people, the land and the spirit world. Every person is assigned his or her own Dreaming (creation story) that is associated with a totem and kinship relations. Each person is also given responsibility for that particular Dreaming, which is continually activated through ritual, song, dance, designs and totemic objects. Through ceremonies, participants as guardians of the story, bring the world

into being through their bodies, songs and actions.¹⁶³

A spiritual linkage exists between an Aboriginal person and a specific site or part of the country by virtue of his or her birth or conception. Culture is based on a kind of contract that must follow ancestral law, providing injunctions and taboos and rules for life to stimulate and guarantee the continued flow of fertility and power from the spiritual realm.¹⁶⁴

Singing and songs may often be given to singers. A series of these songs with many verses tells a story of a Dreaming ancestor who sang as they travelled through the land. These songs have been passed down from generation to generation and help people live on their land by describing water sources or places where plants or game are plentiful. People who own the songs are the traditional owners of the land. Ownership of the songs is proof of continuous association with the land, an important requirement for land claims.¹⁶⁵

Similarly dance is a vital expression of traditional culture as a whole and as part of ceremonies. Many traditional dances depict events from the creation era. Other dances tell stories of the land and the community and their relationships. Different communities tell their own stories and each group has its own distinct style.¹⁶⁶

Aboriginal art is bound to people's relationship with the land.¹⁶⁷ Paintings and other works of art are manifestations of the ancestral beings, transforming the earth through their actions, determining forms within the landscape. The paintings and sacred objects produced in ceremonies are not simply representations of ancestral beings, nor are the ceremonies simply re-enactments of ancestral events. They are, in a sense, manifestations of the ancestral beings and re-creations of the events that they took part in. The Rainbow Serpent has become one of the better-known ancestral spirit beings to non-Indigenous people, depicted in ceremonies through song, story, dance, literature and art. The Rainbow Serpent represents the creator of life who has both female and male aspects. In the Dreaming all the earth lay asleep until the Rainbow Serpent awoke from sleep and moved across the Land creating all the landforms present today.¹⁶⁸ The Rainbow Serpent is said to represent the creative and destructive power of nature, especially rain and water.¹⁶⁹

Many contemporary paintings are the paintings that ancestral beings had painted on their chests, or designs that have become associated with the ancestral being in some other way—and the paintings themselves provide people with the means of tapping the source of ancestral power.¹⁷⁰ This explains why people closely guard their rights in paintings, ensuring that other groups do not steal their designs. Looking after the paintings, songs and other components of their sacred Law is a necessary part of fulfilling their obligations to the ancestors who entrusted them with their land.¹⁷¹

Mortuary ceremonies also provide a major context for artistic expression for example in many parts of Arnhem Land the deceased body or, more frequently today the coffin lid, is painted with designs that represent one of the ancestral beings. In this way, the deceased is put in contact with the spiritual world of the ancestral past and the powers of the ancestral beings are summoned to help guide the spirit to clan lands.¹⁷²

Aboriginal artists employ a variety of media and techniques, from rock paintings, sand sculptures, body paintings, ceremonial posts and coffin lids to baskets or painted spears. These techniques may be restricted to members of a single linguistic group while others are widely used. A single ceremony may involve the creation of many works of art in different media. Some such as body paintings have a short life while others such as the ceremonial posts are intended to last well beyond the ceremony.¹⁷³

Although there is some decorative art, usually only those people who have the inherited rights to produce the designs can paint them and manufacture art objects. The system of ownership in paintings varies widely throughout Australia. Throughout much of northern Australia, rights are vested in patrilineal clans or sections of those clans. In western and southern Arnhem Land, other principles operate. A person also has certain rights in the paintings of his mother's clan. People have different access to the clans' painting according to their age and sex. Authority is vested in the hands of senior members who decide when to teach younger members how to do the particular painting and explain its significance. Young clan members can produce paintings only with the consent of senior clan members and do not have the authority to pass on information about their meaning to others.¹⁷⁴

The pattern of relations between men and women and its expression in the control of the artistic system is not uniform throughout Australia. Women have their own ceremonies in that they own a large body of designs that are kept secret from the men. There are some ceremonies in which both men and women can participate together.¹⁷⁵ Although secrecy is an important component of Aboriginal artistic systems, some paintings and designs are publicly available. In most cases a great deal of artistic activity takes place in open contexts. Ceremonies are often concerned with the interests of members of the clan as a whole and in such cases, paintings and sacred objects function at a more general level, ensuring the fertility of women, the vitality of children and the productivity of the land.¹⁷⁶

Individual paintings and carvings also function as systems of communication, which explain relationships between people and place to the world of the ancestral beings. Much Aboriginal art consists of ancestral designs that are themselves manifestations of the ancestral beings.¹⁷⁷ Paintings establish links between ancestral beings and specific human groups. They are the product of a particular way of expressing meaning. For example paintings in north-east Arnhem Land consist of a number of different components and different types of representation. The main components are a base colour, a border, dividing lines and figurative and geometric representations. To understand the significance of this style and to discover the principles that underlie it, it must be seen as a system of meaning in the context of a particular culture. The geometric and figurative representations encode meanings in different ways. Each element can mean a variety of things in different contexts and it is impossible to interpret its meaning without being told by the artist and without being familiar with the system.¹⁷⁸ The fact that the art must be interpreted before it can be understood makes it particularly suited to a religious system in which certain information is restricted to people of a particular status. Until a person is instructed in the meaning of the component of the art, they cannot understand it.¹⁷⁹

Protecting Indigenous cultural and intellectual property rights

The borrowing and appropriation of Aboriginal motifs, symbols and other representations of culture is of particular concern to many Aboriginal and Torres Strait Islander people. The protection of the intellectual property rights of Indigenous peoples is important to protecting Indigenous artistic practices and sacred knowledge. The Declaration on the Rights of Indigenous Peoples states with regards to Indigenous intellectual and cultural property:

Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional

*games and visual and performing arts. They also have the right to maintain, control, protect, and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.*¹⁸⁰

In Australia, the 1999 Our Culture: Our Future report commissioned by the Aboriginal and Torres Strait Island commission identified the fundamental rights Indigenous people need in order to protect and maintain their cultures. The right to ‘interpretation and integrity’ was identified as important to Indigenous people. This includes the right to prevent derogatory treatment or distortion of Indigenous cultural material.¹⁸¹ Terri Janke, author of the report and an expert on Indigenous intellectual property, noted that the rise in the popularity of Indigenous visual arts both in Australia and internationally has led to the inappropriate use of icons and images. Indigenous art is copied onto carpets, clothes and other fabrics without the permission of the artist or community. Submissions to the report indicated that Indigenous people find the treatment of such culturally and spiritually important designs offensive.¹⁸²

Additionally, Indigenous peoples are concerned that collective ownership be attributed and recognised. Intellectual property laws focus on individual ownership, posing a serious problem for works of art that are collectively owned by a community. Our Culture: Our Future argues that collectively owned Indigenous cultural and intellectual property rights should be granted in the name of the relevant Indigenous community.¹⁸³

Issues of, ‘consent and consultation’ are also of concern. Indigenous people should have the right to refuse to authorise the commercial use of Indigenous cultural and intellectual property according to Indigenous customary law. It should not be assumed that access is granted to the use of material. For example, in some instances non-Indigenous authors have published creation stories claiming copyright in the published version without recognising the source of the story that has been orally transmitted for generations.¹⁸⁴

Indigenous intellectual and cultural property rights are not adequately protected in existing law. This view has repeatedly been articulated by Indigenous people and various reports on the subject of Indigenous traditional knowledge, including Our Culture: Our Future. The Arts Law Centre of Australia has summarised the current situation stating that Australian law only protects some Indigenous intellectual and cultural property, including:

- Works that are protected by Australian copyright law. Australian copyright law protects the material expression of an idea, for example in a painting, a song that is written down or taped or a written story.
- Moral rights of individual artists.
- Designs that come under the Australian Designs Act.

Australian law does not protect other aspects of Indigenous intellectual and cultural property, including:

- The underlying idea or information that is put into a work for example, the story told in a painting.
- A style or method of art for example, cross hatching or dots.
- Some performances such as dance and music if they have not been recorded at all
- In general, a community’s rights in an artwork.¹⁸⁵

Australian copyright law affords limited protection for Indigenous religious and cultural expression. The Copyright Act 1968 (Cth) protects literary, dramatic, artistic and musical works from unauthorised use and dissemination. However, for copyright to subsist in a work,

the work must be original and not copied from another work. This poses a problem as Indigenous people draw on their spiritual and cultural heritage by painting pre-existing clan designs or telling stories passed down from one generation to another. This results in speculation as to whether an artist who reproduces a traditional painting is producing an original work.¹⁸⁶ Copyright also protects the form of expression rather than the ideas themselves. This means that non-permanent forms of cultural expression, including oral stories, songs and dances that have not been recorded, are not protected in existing law.¹⁸⁷ Copyright also only protects works for 70 years after the death of the artist. The system does not cater for Indigenous artistic and cultural expression in which cultural knowledge is passed on to future generations.¹⁸⁸ Finally, moral rights that include the right of attribution of authorship can only be held by individuals.¹⁸⁹ The rights cannot be asserted collectively by an Indigenous family or clan grouping. Despite numerous reports articulating these problems, it is clear much remains to be achieved to adequately protect the religious and cultural expression of Indigenous peoples as expressed through a variety of artistic forms.

9. Indigenous spirituality and language

Key issues

The preservation of Indigenous languages is closely connected to the protection of Indigenous culture and spirituality.

Nineteenth century assimilationist policies and the suppression and prohibition of the use of Aboriginal languages in schools severely eroded both language and transmission of traditional cultural knowledge.

Commonwealth and State funding initiatives must ensure support rather than restriction of bilingual education for Indigenous students and make opportunities for non-Indigenous children to learn Indigenous languages within schools.

In traditional Aboriginal and Torres Strait Islander society, stories and culture are primarily contained within oral and creative traditions. The decimation of Indigenous languages has had a devastating impact on the transmission of cultural knowledge. Every time a language is lost, so too is knowledge and meaning that have existed over many centuries.¹⁹⁰

Traditionally, ancestral beings were said to have left languages on the country, along with the first humans and culture. Languages were rich in religious terminology in the form of story, legend or song. Members of a language group had similar customs and beliefs and occupied a definitive territory, regarding themselves as related through descent from common ancestors.¹⁹¹ In most parts of Australia, there were special languages for special times such as initiation or ceremonial occasions. Such special languages were based on the everyday language, but used different words. Many of the songs for ceremonies also used words whose meanings were known only by older initiated men or women. They were not spoken in public or in front of uninitiated people. Other ways of communicating included the use of sign language that everyone learnt.¹⁹² These might be used when hunting, or when a relative had died or during ceremonies. This 'hand talk' is still used today during times of mourning or sadness.

Colonial authorities and missionary groups were among the first to learn and record Aboriginal languages but were rarely sympathetic to their retention. In some missions people were severely punished for speaking traditional languages and practising culture. Throughout

the 19th century assimilationist policies and the suppression and prohibition of the use of Aboriginal languages in schools continued to erode both language and culture.¹⁹³

Barriers to the maintenance of Indigenous languages

The 2005 National Indigenous Languages Survey (NILS) Report found that of the 145 Indigenous languages still spoken in Australia, 110 are critically endangered. All of Australia's Indigenous languages face an uncertain future if action is not taken.¹⁹⁴ Many Indigenous people have moved from remote locations to urban centres and most of the languages that are still spoken are concentrated in the areas of traditional land ownership. Initiatives to support Indigenous languages have included the development of language resources and bilingual education programs in schools however many of these have now been discontinued. New language forms have also emerged including Kriol, which is spoken in many parts of northern Australia and in the Torres Strait.¹⁹⁵

The power of language as a source of creation is part of many religious traditions. In a book of the Christian Bible, it is said 'In the beginning was the Word, and the Word was with God, and the Word was God.' When the right to speak one's language is denied, much is lost. Languages are a repository of culture and identity and are inseparable from spiritual life, in origin if not in practice. Many Aboriginal communities are actively working to revitalise their languages, through education programs and development of language resources, and through music.

The Commonwealth Government's new National Indigenous Languages Policy (Australian Government, 2009) is aimed at keeping Indigenous languages alive and supporting Indigenous Australians to connect with their language, culture and country. It will focus on five key areas:

- Bringing national attention to Indigenous languages
- Encouraging the use of critically endangered languages to maintain and extend their everyday use as much as possible
- Making sure that in areas where Indigenous languages are being spoken fully and passed on, government recognises these languages when it interacts with Indigenous communities
- Helping restore the use of rarely spoken or unspoken Indigenous languages to the extent that the current language environment allows
- Supporting the teaching and learning of Indigenous languages in Australian schools.

Maintaining and reviving languages are crucial to the cultural and spiritual wellbeing of many Aboriginal and Torres Strait Islander people given their language represents the keystone of their identity, Law and land claims.¹⁹⁶ While Commonwealth initiatives are important in ensuring their future, state governments must also encourage their survival by supporting rather than restricting bilingual education for Indigenous students.

10. Conclusion

Aboriginal and Torres Strait Islander people in Australia today exhibit a diversity of religions and spiritual beliefs. In the 2006 Census slightly more Indigenous Australians reported that they had no religion than did non-Indigenous people. Only 1.1% of the Indigenous population reported that they practiced traditional Aboriginal religion however it is possible that Aboriginal and Torres Strait Islander people who maintain traditional cultural and spiritual

beliefs and practices may also identify as Christian or with other religions. This statistic may or may not reflect actual levels of practice of traditional Indigenous religious beliefs in Australia today. The majority of Indigenous people who did record a religious affiliation reporting that they were Christian (73%) of these, approximately one-third reported Anglican and one-third Catholic.

This paper has drawn on a broad range of literature to document what has been recorded in the written form about Indigenous religious and spiritual beliefs in Australia today. What is most clear from this body of work is that it is misleading to try to separate traditional Australian Indigenous religious or spiritual experience from other aspects of life, culture and history. The freedom of religious expression for Aboriginal and Torres Strait Islander peoples is intimately entwined with the protection and promotion of Indigenous cultures. Developments in social policy and legislation have worked historically to support or hinder the freedom of religious expression for Indigenous Australians. Scrutiny and consultations of future policy and legislative reform in relation to treaty and sovereignty, racial vilification laws or a Bill of Rights should be undertaken with close and ongoing consultations with Indigenous communities of varying faiths and religious belief.

Aboriginal and Torres Strait Islander peoples are still seeking redress for past human rights violations as well as experiencing contemporary violations of their human rights. Over 30 years ago in 1988 Galarrwuy Yunupingu (Chairperson, Northern Land Council) and Wenten Rubuntja (Chairperson, Central Land Council) presented the Barunga statement, a community-based claim for political action and justice to the then Prime Minister Bob Hawke. In this statement a claim for the following rights was asserted:¹⁹⁷

- self-determination and self-management
- permanent control and enjoyment of ancestral lands
- compensation for the loss of use of lands, there having been no extinction of original title
- protection of and control of access to sacred sites, sacred objects, artefacts, designs, knowledge and works of art
- the return of remains of ancestors for burial in accordance with traditions
- respect for the promotion of Aboriginal identity, including the cultural, linguistic, religious and historical aspects, including the right to be educated in their own culture and history
- rights to life, liberty, security of person, food, clothing, housing, medical care, education and employment opportunities, necessary social service and other basic rights.

The aspirations of the Barunga statement are far from realised in today's Australia. State and Federal Governments are charged with the responsibility of making real the rights of Indigenous Australians as articulated within the United Nations Declaration on the Rights of Indigenous Peoples. In the longer term, aspirational initiatives leading to institutional change that will facilitate greater rights protection and the exercise of self-determination may include Constitutional reform and a treaty.¹⁹⁸ In 2010 the AHRC Social Justice Report outlined in detail the case for Constitutional reform.¹⁹⁹ Genuinely and effectively addressing matters such as true land justice, better health, economic opportunity and the protection of cultural and intellectual property will create the conditions that enable religious freedom. If we can admit a duty to, and demonstrate our good faith in, helping to resolve these problems we will be nearing the point where rights for Indigenous Australians, including freedom of religion are both obtainable and meaningful.

In traditional Indigenous religion the sacred and the profane are not separate. Indigenous

economic, physical, social and emotional wellbeing are interconnected with spiritual wellbeing. Spirituality and culture are not separate entities and an assault on one is likely to impact upon the other. Freedom of religion and spirituality is threatened if land ownership is not secure, if Indigenous culture and language is not preserved and if good health is not achieved. How this might best be achieved is at the heart of reconciliation in Australia today, both symbolic and practical.

This paper has identified some key issues around which more detailed discussions and dialogue could now take place with various Indigenous communities that embrace diverse religious or spiritual views.

The following statements summarise the key issues pertaining to freedom of religion and spirituality for Indigenous Australia today:

1. The history of colonisation has influenced, and continues to influence, the religious and spiritual beliefs of Aboriginal and Torres Strait Islander people today.
2. Government policy and legislation has the power to wield influence in the determination of Aboriginal lives and culture. The policy of self-determination in the 1980s ushered in an era of cultural renewal, allowing Indigenous people to practise their spiritual and cultural traditions if they chose to do so. With this began an acceptance by the wider population of the uniqueness and importance of Indigenous cultures.
3. While Christianity was often forcefully imposed on Indigenous people, it was not accepted by all. Indigenous peoples embraced, rejected or were ambivalent towards the religions brought to the Australian continent by missionaries.
4. Indigenous spiritual traditions have persisted to the present, and are sometimes combined with other religious traditions.
5. While much information is available on the traditional beliefs of Aboriginal and Torres Strait Islander peoples, more information is required to gain a broader picture of contemporary religious and spiritual beliefs. Further consultations should take place with Indigenous Christians, Muslims and other minority religions across Australia to determine more fully their concerns relating to freedom of religious belief.
6. The challenge for contemporary Australia is to support Aboriginal and Torres Strait Islander peoples right to self-determination and the right to define and control culture, identity and forms of religious or spiritual expression and belief.
7. Everything about Indigenous society is inextricably woven with, and connected to land or sea. Understanding the importance of this connection is important for all Australians if freedom of religion is to be realised for Indigenous Australians.
8. Historically, Australian law failed to recognise the land and sea rights of Australia's Indigenous peoples. Native title legislation recognizes the traditional ownership of land and waters that have always belonged to Aboriginal people according to their traditions, Laws and customs.

9. The movement of people from their traditional lands has had and continues to have significant implications for the practice of traditional cultural ceremonies and responsibilities to country as set out in traditional Law.

10. Native title and land claims have offered Aboriginal and Torres Strait Islander peoples a greater degree of spiritual, as well as political and economic, autonomy. However, the system is still subject to substantial theoretical and practical flaws. Improving the processes of making native title and land claims should be seen as critical in strengthening cultural heritage protection.

11. The Indigenous concept of health is holistic with spirituality being a central aspect of wellbeing. For many traditional Aboriginal people, ill-health is more than physical illness; it is a manifestation of other factors, including spiritual and emotional alienation from land, family and culture.

12. The provision of Aboriginal controlled holistic health services for Indigenous people is important to ensure culturally appropriate service delivery that recognises the relationship between wellbeing and spirituality.

13. Traditional Indigenous healers continue to practice within Indigenous communities incorporating spiritual techniques and making an important contribution to health and wellbeing.

14. Cultural awareness programs that recognise the centrality of spirituality for non-Indigenous health professionals are essential for the delivery of culturally sensitive health care provision to Aboriginal and Torres Strait Islander people.

15. Policies that are aimed at centralising populations and services into large remote townships should be reconsidered given the important ecological and health gains that living in homelands can deliver.

16. Increasing the number of Indigenous Australian medical, nursing and allied health professionals should be a priority for improving culturally sensitive health care for Aboriginal and Torres Strait Islander people.

17. Indigenous social organisation and kinship structures are determined by customary Law and the spiritual or religious philosophy inherent within it. The Law establishes a complex set of kinship and social arrangements that come with responsibilities and obligations.

18. Ceremony and ritual maintain links to the Ancestral past and continue to play an important role in contemporary Indigenous communities.

19. There are strict rules associated with the performance or reproduction of ceremonial practices or symbols.

20. Funerary and burial practices form an important aspect of sorry business marking the stages in the separation of body and spirit. Greater awareness of these practices in workplaces would support an understanding of the need for leave arrangements for Indigenous employees.

21. Increasing media awareness of the spiritual and cultural practices surrounding death within Indigenous communities remains important in maintaining respect for funerary practices of Indigenous people.
22. Indigenous spiritual and religious traditions are maintained through art forms including painting, design, song and dance.
23. Protecting Indigenous cultural and intellectual property rights is important to protecting freedom of religious expression.
24. Indigenous cultural and intellectual property rights are not adequately protected in existing law.
25. The preservation of Indigenous languages is closely connected to the protection of Indigenous culture and spirituality.
26. Nineteenth century assimilationist policies and the suppression and prohibition of the use of Aboriginal languages in schools severely eroded both language and transmission of traditional cultural knowledge.
27. Commonwealth and State funding initiatives must ensure support rather than restriction of bilingual education for Indigenous students and make opportunities for non-indigenous children to learn Indigenous languages within schools.

Appendix A: Timeline

120,000–40,000 BC First people settle in Australia. Australia's first people interact through a complex system of laws and kinship ties. Each group or clan has its own political, economic and social identity.

1500–1700 AD Indonesian fishers (Maccassins) visit northern Australia and trade with Indigenous peoples.

1606 First recorded contact between Aboriginal Australians and Europeans (Dutch traders).
1770 James Cook's expedition in the Endeavour charts the eastern coast, and claims it for the British Crown.

1788 The first fleet arrives, marking the start of European colonisation on the basis that the land belonged to no one (*terra nullius*). Resistance and conflict between Europeans and Indigenous people begins almost immediately. Diseases brought by the early settlers devastate the Indigenous population.

1810 Aboriginal people begin to be moved into mission stations to be taught European beliefs and are used as cheap labour.

1817 Different religions start to establish in Australia.

1825 The British-based Church Missionary Society began operations in Sydney in 1825, with the intention of bringing the gospel to the Aboriginal population.

1830 October is the beginning of the Black Wars in Tasmania. Governor Arthur tries unsuccessfully to drive all the remaining Aboriginal people in eastern Van Diemen's Land on to the Tasman Peninsula.

1869 An Act for the 'Protection and Management of Aboriginal Natives' is passed in Victoria. The Governor can order the removal of any child to a reformatory or industrial school. The Protection Board can remove children from station families to be housed in dormitories.

Later, similar legislation is passed in other colonies: New South Wales (1883), Queensland (1897), Western Australia (1905) and South Australia (1911). The Northern Territory Aboriginals Ordinance makes the Chief Protector the legal guardian of every Aboriginal and 'half-caste' person under 18. Boards are progressively empowered to remove children from their families.

1871 Missionaries of the London Missionary Society arrive in the Torres Strait, introducing Christianity to the region.

1877 The Hermansburg Mission is established on the Finke River, Northern Territory, by the Evangelical Lutheran Church of Australia and the Hermansburg Mission Society of North Germany.

1901 Federation of Australia. Under the new Australian Constitution, the Commonwealth Government is given the power to make laws for all Australians except Indigenous peoples, who are left in the control of the states and are not counted in the Commonwealth census.

1965 Freedom Ride sees Aboriginal people and students visiting New South Wales country towns to protest against segregation in public spaces, such as swimming pools and cinemas.

1966 Gurindji elder Vincent Lingiari leads Aboriginal stockmen and their families in a walk-off from the Wave Hill Station in protest for better conditions and rights to land.

1967 National Referendum results in the removal of discriminatory references to Aboriginal people in the Constitution and allows Aboriginal people to be counted in the Commonwealth census. 92% of Australians vote 'Yes'.

1971 Neville Bonner becomes the first Aboriginal member of the Federal Parliament.

1972 Tent Embassy established on the lawn of Parliament House in Canberra by Indigenous Australians calling for land rights.

1976 A thousand Aboriginal people march in Alice Springs for land rights and the land councils, culminating in a meeting with Prime Minister Fraser in Canberra.

1977 The Aboriginal Land Rights (Northern Territory) Act 1976 becomes law.

1988 Australia marks 200 years of British settlement – 10 000 Aboriginal people gather around Sydney Harbour to celebrate their survival.

1990 The Aboriginal and Torres Strait Islander Commission (ATSIC) is formed.

1992 The High Court of Australia recognises native title within the common law. The court rules in the Mabo case that native title exists over particular types of land—unalienated Crown land, national parks and reserves—and that Australia was never terra nullius or 'empty land'.

1993 Federal Parliament passes the Native Title Act 1993.

1997 HREOC releases Bringing Them Home—the report of the Stolen Generations inquiry. The inquiry made 54 recommendations, e.g. reparations and an apology to Indigenous peoples.

2000 The 'Australian Declaration towards Reconciliation' and the 'Roadmap for Reconciliation' are presented to the nation's leaders as a part of the Corroboree 2000 Summit in Sydney. Over 300 000 people join the 'Peoples' Walk for Reconciliation' across Sydney Harbour Bridge.

2001 Pope John Paul II issues a formal apology on behalf of the Vatican to the affected Aboriginal families for the actions of Catholic authorities or organisations in connection with the Stolen Generations.

2005 ATSIC is abolished.

2007 Koori Muslim Association opens the only Aboriginal mushalla in NSW at Regent Street Sydney. The Howard Government takes charge of 73 Aboriginal townships in the Northern Territory after a government-commissioned report said alcohol and drugs were fuelling sexual abuse of Indigenous children.

2008 The Australian Parliament apologises to the Stolen Generations.

2009 Professor James Anaya, the UN's special rapporteur on human rights and fundamental freedoms of Indigenous people, completed a fact-finding mission of Aboriginal communities across the country, and said the Northern Territory Intervention is 'incompatible' with Australia's obligations under the International Convention on the Elimination of All Forms of Racial Discrimination and the International Covenant on Civil and Political rights.

2010 The National Congress of Australia's First People established giving a national voice for the views of Indigenous people

Endnotes

1. Introduction

¹ E Bourke, 'Images and Realities', *Aboriginal Australia: An Introductory Reader in Aboriginal Studies*, 2nd Edition, C Bourke, E Bourke and B Edwards, (Eds), University of Queensland Press, St Lucia, 2003.

² B Attwood. Introduction to *Power, Knowledge and Aborigines*, by B Attwood and J Arnold, (Eds) pp. i-xvi. Bundoora, Victoria: La Trobe University Press, 1992.

2. Key concepts

³ A. Delbridge et al. (Eds), *Macquarie Dictionary*, Macquarie Library, North Ryde, 2001.

⁴ G Bouma, *Australian Soul: Religion and Spirituality in the Twenty-First Century*, Cambridge University Press, Melbourne, 2006.

⁵ *ibid.*

⁶ UN General Assembly, UN Declaration of the Rights of Indigenous People, 2007, Available: <http://www.un.org/esa/socdev/unpfii/en/drip.html>.

⁷ Evans, C (2009)) *Legal Aspects of the Protection of Religious Freedom in Australia*. AHRC.

⁸ *Commonwealth of Australia Constitution Act s 116*

⁹ WEH Stanner, 'On Aboriginal Religion', *The Oceanic Monograph*, No. 11, 1963, p 50.

3. Indigenous Spirituality in Australian

10 C Bourke, C Thompson and I White, *Aboriginal Life to 1788*, Oxford University Press, Melbourne, 1980.

11 M Charelsworth, 'Introduction', *op.cit.*

12 B Elder, *Blood on the Wattle: Massacres and Maltreatment of Australian Aborigines since 1788*, National Book Distributors, Brookvale, NSW, 1988

13 L Lippmann, *Generations of Resistance: Aborigines Demand Justice*, 2nd Edition, Longman Cheshire Pty Limited, Melbourne, 1991

14 R Perkins and M Langton (Eds), *First Australians*, Miegunyah Press, Carlton, 2008.

15 G Yunupingu, 'Concepts of Land and Spirituality', *Aboriginal Spirituality: Past, Present, Future*, ed. A Pattel-Gray, Harper Collins Religious, Blackburn, 1996.

16 B Edwards, C Bourke, and E Bourke (Eds), *Aboriginal Australia: An Introductory Reader in Aboriginal Studies*, 2nd Edition, University of Queensland Press, St Lucia, 2003.

17 *ibid.*, p. 80.

18 DB Rose, 'Consciousness and Responsibility in an Australian Aboriginal Religion', *Traditional Aboriginal Society*, ed. WH Edwards, 2nd Edition, Macmillan Education, Melbourne, 1998.

19 WH Edwards (Ed), *Traditional Aboriginal Society*, 2nd Edition, Macmillan Education, Melbourne, 1998, p. 227.

20 Australian Law Reform Commission, 'Traditional Aboriginal Society and its Law', *Traditional Aboriginal Society*, ed. WH Edwards, 2nd Edition, MacMillan, South Yarra, 1998.

21 M Charelsworth, 'Introduction', *Aboriginal Religions in Australia: An Anthology of recent Writings*, (Eds) M Charelsworth, F Dussart, and H Morphy, Ashgate, Aldershot, 2005.

22 B Edwards, C Bourke, and E Bourke (Eds), *op.cit.*

23 N Sharp, *Stars of Tagai: The Torres Strait Islanders*, Aboriginal Studies Press, Canberra, 1993.

24 AIATSIS, *The Little Red Yellow Black Book: An Introduction to Indigenous Australia*, 2nd Edition, Canberra, Aboriginal Studies Press, 2008.

25 N Sharp, *op.cit.*

26 *ibid.* pp. 29, 30.

- 27 Australian government (2007) Torres Strait Islander Regional Authority. The Coming of the Light Festival. Available: <http://www.tsra.gov.au/the-torres-strait/events/coming-of-the-light.aspx>
- 28 N Sharp, op.cit
- 29 Mundus, Gateway to Missionary Collections in the UK, viewed 6 November 2009, Available: <http://www.mundus.ac.uk/cats/4/910.htm>.
- 30 N Peterson, et al., 'Social and Cultural Life', Macquarie Atlas of Indigenous Australia, (Eds) B Arthur and F Morphy, Macquarie Library, NSW, 2005.
- 31 M Charelsworth, 'Introduction', op.cit.
- 32 N Peterson, et al., op. cit.
- 33 B. Edwards (2008) Missiology and Australian Aboriginal Missions: A Personal Journey. Christian Mission in the Public Square. Australian Association for Mission Studies Public and Contextual Theology Conference. 2–5 October 2008 Australian Centre for Christianity and Culture Canberra. ACT .
- 34 C Stevens. White Man's Dreaming: Killapaninna Mission 1866-1951. Melbourne: Oxford University Press. 1994.
- 35 N Loos. White Christ Black Cross: The Emergence of the Black Church. Canberra: Aboriginal Studies Press. 2007
- 36 C Stevens, op.cit.
- 37 ibid.
- 38 N Loos, op.cit.
- 39 ibid.
- 40 C Stevens, op. cit.
- 41 ibid.
- 42 N Peterson, et al., op. cit.
- 43 AIATSIS, 2008, op. cit.
- 44 F Magowan, 'Faith and Fear in Aboriginal Christianity', Aboriginal Religions in Australia: An Anthology of recent Writings, (Eds) M Charelsworth, F Dussart, and H Morphy, Ashgate, Aldershot, 2005.
- 45 P Sutton, 'The Politics of Suffering', Indigenous Australia and the end of the liberal concensus, Melbourne University Press, Melbourne, 2009.
- 46 AIATSIS, 2008 op. cit.
- 47 N Peterson, et al., op. cit.
- 48 N Loos, op. cit.
- 49 N Sharp, op.cit.
- 50 ibid.
- 51 M Nakata, Disciplining the Savages, Savaging the Disciplines, Aboriginal Studies Press, Canberra, 2007, p. 205.
- 52 ibid.
- 53 P Stephenson, Post Doctoral Research Fellow in the Australian Centre at the University of Melbourne, 'Islam in Australia' in Politics and Culture, 2009 issue 4, Available: <http://aspen.conncoll.edu/politicsandculture/page.cfm?key=361>
- 54 ibid. p 2.
- 55 ibid. p 3.
- 56 ibid. p 3.
- 57 ibid. p 3.
- 58 Department of Foreign Affairs and Trade, Muslims in Australia, Fact Sheet, 2008. Available: http://www.dfat.gov.au/facts/muslims_in_Australia.html
- 59 P Stephenson, op.cit. p 1.
- 60 ibid, p 1.
- 61 Department of Foreign Affairs and Trade, 2008. op.cit.

- 62 JC Altman, and W Sanders, 'From Exclusion to Dependence: Aborigines and the Welfare State in Australia', *Social Welfare with Indigenous Peoples*, (Eds) J Dixon and R Scheurell, Routledge, London, 1994, p. 206–229.
- 63 *ibid.*
- 64 *ibid.*
- 65 R Pitty What's in a treaty as Reconciliation. *Australian Review of Public Affairs*. 2000. Available: <http://www.australianreview.net/digest/2000/07/pitty.html>
- 66 *ibid.*
- 67 A Pratt, and S Bennett, 'The End of ATSIC and the Future Administration of Indigenous Affairs', *Current Issues Brief no. 4, 2004–2005*, Parliamentary Library, Parliament of Australia, 2004.
- 68 Hunter B.H. and RG Schwarb. Practical reconciliation and continuing disadvantage in Indigenous education. *The Drawing Board: An Australian Review of Public Affairs*. Volume 4, Number 2: November 2003, 83–98.
- 69 P Sutton, *op. cit.*
- 70 G Thompson, Northern Territory Intervention Christians for an Ethical Society, 2009, Available: http://www.ces.org.au/nothern_territory_intervention.htm.
- 71 D Lawrence and H.R. Lawrence, (2004) *Torres Strait: the region and its people*. In R. Davis, (Ed) *Woven Histories, Dancing Lives: Torres Strait Islander Identity, Culture and History*, Aboriginal Studies Press, Canberra
- 72 M Nakata, *op.cit.*, p. 141.
- 73 *ibid.*
- 74 R Perkins and M Langton (Eds) *First Australians*, Miegunyah Press, Carlton, 2008, p. 336.
- 75 N Sharp, *op. cit.*, p. 130.
- 76 M Nakata, *op.cit.*, p. 131.
- 77 N Sharp, *op. cit.*, p. 234, 235.
- 78 Australian Bureau of Statistics *A Picture of the Nation. Cultural diversity overview 2006a*. 2070.0
- 79 Australian Bureau of Statistics *Population Characteristics, Aboriginal and Torres Strait Islander Australians*. 2006c. 4713.0
- 80 *ibid.*
- 81 G Bouma. *Australian Soul: Religion and Spirituality in the Twenty-First Century*. Melbourne: Cambridge University Press. 2006. p 58.
- 82 Australian Bureau of Statistics. 2006c *op.cit.*
- 83 B Arthur and F Morphy (Eds), *Macquarie Atlas of Indigenous Australia*, Macquarie Library, NSW, 2005, p. 104, 105.
- 84 F Magowan, *op. cit.*
- 85 B Arthur and F Morphy (Eds), *op.cit.* p. 103.
- 86 N Loos, *op. cit.*, pp. 172, 173.
- 87 AIATSIS, 2008 *op. cit.*
- 88 V Grieves. *Aboriginal Spirituality: Aboriginal philosophy. The Basis of Aboriginal Social and Emotional Wellbeing*. Cooperative Research Centre for Aboriginal Health. Australia. 2010. p 19.
- 89 Australian Bureau of Statistics. *A Picture of the Nation Religion across the generations*. 2006b. 2070.0
- 90 Australian Bureau of Statistics 2006a. *op.cit.*
- 91 Australian Bureau of Statistics, 2010. *op.cit.*
- 92 B Arthur and F Morphy (Eds), *op.cit.*, p 101, 102.
- 93 P Stephenson. 2009. *op.cit*
- 94 P Stephenson, 2009. *op.cit*
- 95 Islam Dreaming, Reporter Julie Nimmo, SBS Television, 27 February 2003.
- 96 S. Maddison *Black Politics*. Allen and Unwin: Crows Nest. 2009. p113.

97 Australian Bureau of Statistics, National Aboriginal and Torres Strait Islander Social Survey, 4714.0, 2008, Available:
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4714.0Main+Features12008?OpenDocument>.

98 *ibid.*

99 Maddison, 2009. *op.cit.*, p.114

100 Grieves, 2010. *op.cit.*

101 Maddison, 2009. *op.cit.*, p. 114

102 *ibid.* p. 111.

4. Indigenous Spirituality and connection to land and sea

103 Dodson in Grieves *op.cit.* 2010:13.

104 B Arthur and F Morphy, 2005. P. 100.

105 Commonwealth of Australia. National Native Title Tribunal, What is Native Title, 2008. Available:

<http://www.nntt.gov.au/What-Is-Native-Title/Pages/History.aspx>

106 Commonwealth of Australia, Department of Environment, Heritage and the Arts, Uluru Visitor Guide, 2009. Available:

<http://www.environment.gov.au/parks/publications/uluru/visitor-guide.html>

107 Reconciliation Australia, Climbing Uluru Q&A, 2009. Available:

<http://www.reconciliation.org.au/home/reconciliation-resources/facts--figures/qa-factsheets/climbinguluru>,

108 *ibid.*

109 H Reynolds (1987) *The Law of the Land*. Penguin: Australia

110 R Perkins and M Langton (Eds), *First Australians*, Miegunyah Press, Carlton, 2008.

111A Curthoys, A Genovese and A Reilly, *Rights and Redemption: History, Law and Indigenous People*, Sydney, UNSW Press, 2008, p. 4.

112 J Healy (ed), *op. cit.*;

113 A Curthoys, A Genovese and A Reilly, 2008. *op. cit.*

114 National Indigenous Times, NIT FORUMS: 'Rudd to be tested on closing the gap', 2009. Available: <http://www.nit.com.au/opinion/story.aspx?id=17447>

115 AIATSIS, 2008 *op. cit.*

116 M Charelsworth (ed), *Religious Business: Essays on Australian Aboriginal Spirituality*, Cambridge University Press, Cambridge, 1998.

117 A Curthoys, A Genovese and A Reilly, *op. cit.*

118 C Choo, and S Hollbach, 'History and Native Title—A Brief Overview', *History and Native Title*, (Eds) C Choo and S Hollbach, University of Western Australia, 2003.

119 Healey, J. *Aboriginal Land Rights*. Rozelle: The Spinney Press, 2002.

120 *ibid.*

121 M Maddox, 'Indigenous Religion in Secular Australia', Research Paper 11 1999–2000, Parliamentary Library, Parliament of Australia, 1999.

122 *ibid.*

123 *ibid.*

124 RS French, *Lifting the Burden of Native Title—Some Modest Proposals for Improvement*, 2008, viewed 9 November 2009,

http://www.fedcourt.gov.au/aboutct/judges_papers/speeches_frenchj35.html.

125 G Yunupingu, *op. cit.*, p. 5.

126 Everett in Grieves, 2010. *op.cit.*

5. Indigenous Spirituality Health and Wellbeing

- 127 A McEwan, K Tsey and the Empowerment Research Team, *The Role of Spirituality in Social and Emotional Wellbeing Initiatives: The Family Wellbeing Program at Yarrabah—Discussion Paper N. 7.*, Cooperative Research Centre for Aboriginal Health, Darwin. 2009
- 128 Atkinson in Grieves, 2010, op.cit. p43)
- 129 LR Jackson and JE Ward, ‘Aboriginal health: why is reconciliation necessary?’, *Medical Journal of Australia*, 1999; 170: 437–440.
- 130 CP Burgess, FH Johnston, HL Berry, J McDonnell, D Yibarbuk, C Gunabarra, A Mileran and RS Bailie, ‘Healthy country, healthy people: the relationship between Indigenous health status and “caring for country”’, *Medical Journal of Australia*, 2009; 190 (10): 567-572.
- 131 *ibid.*
- 132 P Sutton, op. cit.
- 133 P Sutton, op. cit.
- 134 N Porocho, K Arabena, K., J Tongs, S Larkin, J Fisher, J. & G Henderson, *Spirituality and Aboriginal People’s Social and Emotional Wellbeing: A Review*, Discussion Paper No 10, Cooperative Research Centre for Aboriginal Health, Darwin. 2009
- 135 *Australian Indigenous Health Bulletin*, ‘Current Issues: The Aboriginal and Torres Strait Islander Healing Foundation Consultations Begin’, Vol. 9 No. 2, April 2009–June 2009,
- 136 Grieves, op.cit. 2010.
- 137 Sheldon, M. (1997). *Psychiatric Assessment in Remote Aboriginal Communities of Central Australia*. A dissertation submitted in part fulfillment of the requirements of the Fellowship of the Royal Australian and New Zealand College of Psychiatrists. Available: http://www.aams.org.au/mark_sheldon/index.htm.

6. Indigenous spirituality, kinship and social organisation

- 138 L Dousette, *Kinship and Introduction*, Australian Aboriginal Kinship and Social Organisation, AusAnthrop, 2002, Available: <http://ausanthrop.net/research/kinship/kinship2.php>.
- 139 *ibid.*
- 140 S Fryer-Smith, *Aboriginal Benchbook for Western Australian Courts*, 2nd Edition, The Australasian Institute of Judicial Administration, 2008, Chapter 2, Section 2.5, Available: http://www.aija.org.au/index.php?option=com_content&task=view&id=436&Itemid=165.
- 141 *ibid.*
- 142 L Dousette, op. cit.
- 143 R Tonkinson, ‘Mardudja Kinship’, *Traditional Aboriginal Society*, WH Edwards, (Ed) 2nd Edition, Macmillan Education, South Yarra, 1998, pp. 150, 151.
- 144 Grieves, op.cit. 2010. Pp 14-15.
- 145 R Broome, *Aboriginal Australians: Black Responses to White Dominance, 1788-1994*, Allen & Unwin, St Leonards, NSW, 1994.

7. Indigenous spirituality, ritual and ceremony

- 146 Creative Spirits. *Welcome to Country, Acknowledgement of Country*. nd. Available: <http://www.creativespirits.info/aboriginalculture/spirituality/welcome-to-country.html>
- 147 *ibid.*
- 148 R Berndt and C Berndt, *The First Australians*, Ure Smith Pty Ltd, Sydney, 1967.
- 149 J Morton, *Encyclopedia of Death and Dying*, Australian Aboriginal Religion, 2009, viewed 10 October 2009, <http://www.deathreference.com/A-Bi/Australian-Aboriginal-Religion.html>.
- 150 Sheldon, op.cit., 1997
- 151 N Sharp, op. cit. 1993
- 152 B Arthur and F Morphy (Eds), *Macquarie Atlas of Indigenous Australia*, Macquarie Library, NSW, 2005.

153 J Beckett, *Torres Strait Islanders: Custom and Colonialism*, Cambridge University Press, Melbourne, 1987.

154 Creative Spirits. *Aboriginal Remains repatriation*, nd. Available: <http://www.creativespirits.info/aboriginalculture/people/aboriginal-remains.html>

155 *ibid.*

156 The Hon. Jenny Macklin. Minister for Families, Housing, Community Services and Indigenous Affairs. Media Release. *Indigenous remains repatriated from the UK to Australia*. 2009. Available:

http://www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/indigenous_remains_20july2009.htm.

157 Commonwealth of Australia, 'Cultural protocols relating to deaths in Indigenous communities', Australian Government's Indigenous Portal, 2009. Available: https://www.indigenous.gov.au/cultural_protocol.htm.

158 Reconciliation Australia. Kirstie Parker, editor of the *Koori Mail*, presentation at Parliament House, 12 November 2009. Available: <http://www.reconciliation.org.au/home/get-involved/events/closingthe-gap/ms-kirstie-parker>.

159 The Parliament of the Commonwealth of Australia, *Indigenous Australians at work: Successful Initiatives in Indigenous Employment* House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, June 2007, Canberra, p. 154.

160 *ibid* p. 153.

161 *ibid* p. 153.

8. Indigenous spirituality and artistic expression

162 M Langton, 'Prologue', *First Australians*, (Eds) R Perkins and M Langton, Miegunyah Press, Carlton, 2008.

163 J Sabbioni, K Shaffer and S Sidone, *Indigenous Australian Voices—A reader*, New Brunswick, Rutgers University Press, 1998, p xxi.

164 AIATSIS, 2008 *op. cit.*

165 *ibid.*

166 *ibid.*

167 H Morphy, 'The Art of Northern Australia', in *Traditional Aboriginal Society*, ed WH Edwards, 2nd Edition, Macmillian Education Australia, South Yarra, 1998.

168 *ibid.*

169 LR Hiatt, 'High Gods', Introduction, in *Aboriginal Religions in Australia: An Anthology of Recent Writings*, (Eds) M Charelsworth, F Dussart, and H Morphy, Ashgate, Aldershot, 2005, p. 51.

170 H Morphy, *op. cit.*

171 *ibid.*

172 *ibid.*

173 *ibid.*

174 *ibid.* p. 14.

175 D Bell, 'Aboriginal Women's Religion: A Shifting Law of the Land', *Traditional Aboriginal Society*, ed WH Edwards, 2nd Edition, Macmillian Education Australia, South Yarra, 1998; D Bell, 'Women's Business, What is it?' *Aboriginal Religions in Australia: An Anthology of Recent Writings*, (Eds) M Charelsworth, F Dussart, and H Morphy, 2005, Ashgate Publishing, Aldershot.

176 H Morphy, *op. cit.*

177 *ibid.*

178 *ibid.*

179 *ibid.*

180 United Nations General Assembly. The Declaration on the Rights of Indigenous Peoples, Article 31, paragraph 1. 2007 Available: <http://www.un.org/esa/socdev/unpfii/en/drip.html>.

181 T Janke, 'Indigenous cultural expression and intellectual property' in E Johnston, M Hinton and D Rigney (Eds), *Indigenous Australians and the Law*, 2nd Edition, 2008, Routledge Cavendish, Oxon. P. 65.

182 *ibid.* p. 65, 66.

183 *ibid.* p. 66.

184 *ibid.* p. 66.

185 Arts Law Centre of Australia Online, 'Indigenous culture and intellectual property', Available:

<http://www.artslaw.com.au/LegalInformation/Indigenous/ICIP.asp> 2009.

186 T Janke, *op.cit.* p. 68.

187 *ibid.* p. 69.

188 *ibid.* p. 70.

189 *ibid.* p. 73.

9. Indigenous Spirituality and Language

190 P McConvell and N Thieberger, 'Languages Past and Present', *Macquarie Atlas of Indigenous Australia*, (Eds) B Arthur and F Morphy, Macquarie University, NSW, 2005.

191 L Lippmann, *Generations of Resistance: Aborigines Demand Justice*, 2nd Edition, Longman Cheshire Pty Limited, Melbourne, 1991.

192 C Bourke, C Thompson and I White, *Aboriginal Life to 1788*, Oxford University Press, Melbourne, 1980, p. 79.

193 L Lippmann, *op. cit.*; AIATSIS, *op. cit.*

194 Australian Government. Department of Environment, Water, heritage and the Arts. *Indigenous Languages- A national Approach*. 2009. Available:

http://www.arts.gov.au/indigenous/languages_policy

195 P McConvell and N Thieberger, *op. cit.*

196 AIATSIS, 2008 *op. cit.*, p 28.

9. Conclusion

¹⁹⁷ L Behrendt (2003) *Achieving Social Justice: Indigenous Rights and Australia's future*. Federation Press: Annandale

¹⁹⁸ *ibid.*

¹⁹⁹ AHRC 2010. *Social Justice Report*.

ⁱ Australian Bureau of Statistics 2010. Data for this Table was commissioned from the ABS for the purpose of this paper.

ⁱⁱ *ibid*