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Reconciliation: the Political Theological Nexus in Australasian Indigenous Public Policy

Reconciliation brings together Christological and anthropological dimensions of human thought to illustrate the nexus between religious principles and political means. For the state reconciliation is concerned with social cohesion and political stability. For the Church, it extends the sacramental notion of reconciliation between God and penitent to public relationships.

The paper examines Roman Catholic contributions to secular reconciliation debates. It shows how religious precepts create moral imperatives to engagement with secular discourses as a necessary element of Christian mission. It is also argued that the Church's own role in the disruption of indigenous societies creates an additional moral imperative to engage in reconciliation as mission and to articulate a Christian vision of indigenous rights.

Keywords

Reconciliation, Roman Catholic, indigenous, mission

Introduction

Reconciliation has characterised indigenous public policy debate implicitly in New Zealand since the 1980s, and explicitly in Australia since the 1990s. It is a philosophy that can sit awkwardly in secular liberal politics, where it is sometimes held that:

The contestability and subjectivity of value choices leads to the liberal position that the political processes are to embody a procedural rationality, or a theory of right, but are not to endorse a substantive vision of the good. In this view, state endorsement of a Christian value system threatens the freedom of those who do not subscribe to such a world-view.¹

Alternatively, liberal theory developed precisely to protect religious freedom which can only occur in a plural secular polity. Plurality means that the state's co-option of reconciliation does not threaten the freedom of others, but religious voices remain as legitimate as any in the liberal public sphere.

In Australia a political environment generally unsympathetic to indigenous aspirations prevailed between 1996 and 2007 when a new national Parliament passed a motion of apology to the generations of indigenous peoples whose members had

¹Michael Phillips, 'Aboriginal Reconciliation as Religious Politics: secularisation', *Australian Journal of Political Science*, 40: 2 (2005), 111-25 at 114.

been systematically removed from their families between the early 1900s and early 1970s. In 1991, however, the Hawke Government (1983-1991) entrenched the religious word 'reconciliation' into contemporary political discourse by establishing the Council for Aboriginal Reconciliation, which among other things, promoted the annual National Sorry Day to encourage public expressions of sorrow for the policies leading to the removal of children. In this context, the Australian Roman Catholic Church adopted a more vocal and forthright advocacy of reconciliation. In New Zealand, in contrast, the Treaty of Waitangi² has provided a context for reconciliation, and usually more sympathetic governments have created opportunities for limited expressions of self-determination unparalleled in Australia.

Reconciliation in the Public Realm

In the public realm reconciliation extends the sacramental notion of a relationship between God and penitent to a communal relationship among people. It is concerned with religious goals and political responsibilities extending beyond the simple acknowledgement of wrongdoing and granting of forgiveness. It integrates personal stories into 'the Christ narrative of passion, death and resurrection [seeking]... repentance and forgiveness'.³ At the same time, in political terms, reconciliation can bring together 'a discursive, democratic space' capable of accommodating different national stories.⁴ Reconciliation offers moral legitimacy to post-colonial societies and provides an alternative political strategy to the impractical 'traditional liberal responses to a nationally divided polity - secession or assimilation.'⁵ Instead, it encourages the development of a shared political vision while always recognising that

² The Treaty of Waitangi was the agreement between Maori chiefs and the British Crown which allowed, but also qualified, the establishment of British government in New Zealand.

³ Cyril Hally, 'Reconstructing the Moral Order of Society by Forgiveness and Reconciliation', *Aboriginal Issues Newsletter*, 2: 2 (1998), 1-2 at 2.

⁴ Paul Muldoon, 'Reconciliation and Political Legitimacy: the old Australia and the new South Africa', *Australian Journal of Politics and History*, 49: 2 (2003), 182-96 at 182.

⁵ Muldoon, 'Reconciliation and Political Legitimacy: the old Australia and the new South Africa', 186.

different groups may contribute to that vision in different ways and reasonably ask for different things from common membership of the one polity. It is both symbolic and tangible.

Reconciliation means that those who have been on the underside of history must see that there is a qualitative difference between repression and freedom. And for them, freedom translates into having a supply of clean water; having electricity on tap; being able to live in a decent home, and have a good job; to have accessible health care... What's the point of having made this transition if the quality of life of these people is not enhanced and improved...?⁶

Political systems resolve conflict through power. In a system like Australia's power is dispersed among Commonwealth and state and territory legislatures, between each House in bicameral parliaments and among parties in the Houses. Reconciliation, on the other hand, resolves conflict through unqualified acknowledgement of wrongdoing, acceptance of remorse by the aggrieved and the determination to both cease wrongdoing and address its consequences. Reconciliation is not therefore immediate. It takes time for the political process to obtain agreement on the terms and conditions of reparation. The resolve not to repeat injustices must prove durable, which is why it is unreasonable to expect indigenous peoples to respond immediately to the ultimate requirement that reconciliation places upon victims: forgiveness.

For the state, reconciliation is a secular objective concerned mainly with social cohesion and political stability. But its moral purpose and ultimate justification is much more than a matter of political philosophy. Reconciliation is a metaphor for peaceful political relationships. But it is also concerned with the very nature of human being and the full transcendental significance of human existence. Beyond legal redress, it is interested in the entrenchment of just political relationships. Justice is the

⁶ Desmond Tutu, 'South Africa; Tutu Says Poverty, Aids Could Destabilise Nation' quoted in William Gumede, ed., *Thabo Mbeki and the Battle for the Soul of the ANC*. (Cape Town: Zebra Press, 2005), at p. 67.

recognition of a body of rights discernable from the common good and is inextricably linked with the human condition, which creates a moral imperative for political engagement and a theological explanation for the Church's interest in contemporary reconciliation debates.

The human suffering which stems from racism is more than just a political or ethical question because, for the Church, 'God in Christ is present in suffering people'.⁷ Human suffering 'is also a matter of Christology - that is of how we understand the incarnate God',⁸ because 'in as much as you did it unto one of these the least of thy brethren, you did it unto me' (Matthew 25: 40). Christian reconciliation depends on political means and illustrates 'the fusing of the Christological and anthropological dimensions... found in the person of Jesus himself.'⁹ The Christological implication of the human condition is that:

The joys and the hopes, the griefs and the anxieties of the men of this age, especially those who are poor or in any way afflicted, these too are the joys and hopes, the griefs and anxieties of the followers of Christ.¹⁰

In 1986, Pope John Paul II told the New Zealand Catholic Bishops' Conference that:

Social and moral values are not irrelevant to public policy, nor can public policy prescind from these values... When you speak about issues of peace and human rights, and when you work for justice, you are contributing to the well-being of all society.

When you speak about reconciliation you are touching one of humanity's deepest needs. What is at stake is true reconciliation with God, with one's fellow human beings and with oneself.¹¹

⁷ Graeme Garrett, 'A Place of One's Own: Reflections on a Theology of Space', *St Mark's Review*, 4 (1993), 3-7 at 4.

⁸ *Ibid.*, 4.

⁹ Christopher Prowse, *Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion*, (Doctoral Dissertation in Moral Theology, Pontifical Lateran University, Rome, 1995), p. 38.

¹⁰ The Second Vatican Council, *Gaudium et Spes* (Vatican City, 1965), para 1. <<http://www.christusrex.org/www1/CDHN/v4.html>> [accessed 10 October 2008].

¹¹ John Paul II, 'Meeting with New Zealand Bishops', in *Peace: The Message of the Gospel. Complete Texts of Addresses Given by Pope John Paul II During His Pastoral Visit to New Zealand 22-24 November 1986* (Wellington: Catholic Communications, for the New Zealand Catholic Bishops' Conference, 1986), p. 29.

John Paul also cautioned against seeing the Christian experience only in terms of personal well-being because:

A secularised society needs to be confronted again by the entire Gospel of salvation in Jesus Christ. As Shepherds of God's people, we are sent to the contemporary world, to the men and women of our time, 'to preach the Gospel...' (1 Corinthians 1: 17).¹²

In other words one cannot be seriously interested in religion, without being committed to the expression of religious values in secular contexts. When parliaments enact unjust legislation the whole community is morally compromised. Theology provides an intellectual framework for thinking about just relationships between indigenous and non-indigenous peoples and for thinking about the contemporary claims that indigenous peoples make on the body politic. This remains even though reconciliation debates are characterised by a 'secularised theological element',¹³ rather than any specific reference to God or religion. What is, however, important is that it is the state's responsibility to protect and uphold the common good.¹⁴

The inviolable dignity of the human person precludes racism, compromises human unity, and denies some people the ability to share in the common good of the whole community. For Thomas Aquinas, whose thinking heavily influences contemporary Catholic understandings, the common good means all the preconditions for the achievement, by each individual, of his or her own individual good. Further, because God is the sovereign good 'it belongs to him to make all things best' and it is better 'that the good bestowed on someone should be common to many... since the common good is always considered more godlike than the good of one only'.¹⁵ To what extent,

¹² Ibid., p. 27.

¹³ Phillips, 'Aboriginal Reconciliation as Religious Politics: secularisation', 112.

¹⁴ John Paul II, *Centesimus Annus*, (Vatican City, 1991), para. 11.

<http://www.osjspm.org/majordoc_centesimus_annus_official_text.aspx> [accessed 10 October 2008].

¹⁵ Thomas Aquinas, *On the Truth of the Catholic Faith: Summa Contra Gentiles* (Garden City, N.Y: Image Books, 1955). Bk. 3b Ch 69.

then, have the political decisions of the Australasian States meet these ideals? To what extent have policy choices been made with either the deliberate or consequential intention of excluding indigenous populations from the common good? Political answers to these questions can be confrontational and divisive as the post-colonial state's assumption of absolute indivisible sovereignty becomes less secure over the indigenous politics of resistance.

Reconciliation is concerned with correcting the consequences of political marginalisation, and as the Synod of Bishops for Oceania put it in 1998:

Reconciliation between indigenous peoples and the descendants of colonising settlers is required in many countries and the Church has the right and the will to contribute to this process. National reconciliation is an indispensable condition for internal peace and real progress.¹⁶

The 'right and... will' to contribute to the process of reconciliation is claimed as 'an act of justice towards society to speak the Church's teaching with sureness and clarity...'¹⁷ Furthermore:

National reconciliation is an indispensable condition for internal peace and real progress. There is a place for repentance and forgiveness without undermining the sense of justice. Above all, the Church believes in the power of God's Spirit, the bearer of peace, reaching farther and deeper than all human efforts.¹⁸

As Janover put it, 'we stand in greatest need of the circuit-breaker of forgiveness when the ground of respect itself has been shattered by intra-communal violence and hatred'.¹⁹

The Australasian Churches hold that in indigenous public policy 'sin is structured into... society'²⁰ and that reconciliation requires addressing history's legacy to secure

¹⁶ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life* (Vatican City, 1998), para. 17.

¹⁷ *Ibid.*, para. 29.

¹⁸ *Ibid.*, para. 17.

¹⁹ Michael Janover, 'The Limits of Forgiveness and the Ends of Politics', *Journal of Intercultural Studies*, 26: 3 (2005), pp. 221-235 at p. 230.

a just and peaceful future. It ought to be recognised that: ‘Structures whether they are good or bad, are the results of man’s actions,’²¹ meaning that structural policy change requires challenging the political values of ‘free and responsible persons’,²² who have the power to correct the consequences of injustice.

In 1988, Leonard Faulkner, Archbishop of Adelaide, suggested that Australians had already ‘been diminished by the injustice that has been done to Aborigines’ and that consequently ‘all of us are in need of conversion, and the saving power of God which can set us free’.²³ In the same year, Denis Browne, Bishop of Auckland, suggested that New Zealand could not be proud of the history of Pakeha relationships with Maori because they have often been ‘marred by insensitivity and exploitation’.²⁴ Browne explained this inconsistency with Catholic thought by reference to the remark attributed to Jesus, ‘I have come in order that you might have life - life and all its fullness’ (Jn 10: 10). This message, he said, is ‘uncompromising and binds all who profess Jesus as Lord... That does not allow for discrimination, for greed or for injustice’.²⁵

Yet just as in Australia, consistent and unashamed advocacy of such principle took place only after simultaneous political developments during the 1960s and 1970s created space on the secular political agenda for the expression of a plurality of views. In both countries movement in popular political thought shifted a constant religious ideology from the fringe of secular discourse to one that is broadly, although by no

²⁰ John Wilcken, ‘A Theological Approach to Reconciliation’ in Frank Brennan, ed, *Reconciling Our Differences: A Christian Approach to Recognising Aboriginal Land Rights* (Richmond, Vic.: Aurora Books/David Lovell Publishing, 1992), pp. 63-77 at p. 67.

²¹ Sacred Congregation for the Doctrine of the Faith, *Instruction on Certain Aspects of the “Theology of Liberation* (Vatican City, 1984), IV, 15.

²² *Ibid.*, 15.

²³ Leonard A Faulkner, *Pastoral Letter to Christ’s Faithful of the Archdiocese of Adelaide*, (18 January 1998), 2.

²⁴ Denis Browne, *New Year Message from Bishop Denis Browne*, ACDA Bro\AD-46\ File 46b, 3 January 1988.

²⁵ *Ibid.*

means universally, accepted by a sizeable policy elite. This new political space laid the foundations for an institution that in its own terms is not 'of this world' to begin a religious activism in support of indigenous aspirations.

The Church's own role in the disruption of indigenous societies adds to the moral imperative for contemporary contributions to reconciliation, which the Synod of Bishops for Oceania acknowledged.

The Church expresses deep regret and asks forgiveness where her children have been or still are party to these wrongs. Aware of the shameful injustices done to indigenous peoples in Oceania, the Synod Fathers apologize unreservedly for the part played in these by members of the Church, especially where children were forcibly separated from their families.²⁶

The Australian Church's nineteenth century responses to colonisation were largely apathetic, but with important exceptions. The same conclusion can be drawn from New Zealand. Yet as the twentieth century progressed Catholic consciences became increasingly more troubled and during the 1990s, in particular, the Australian Church, with the tacit endorsement of the Holy See,²⁷ took a leading role in ensuring the centrality of reconciliation on the Australian political agenda.

In New Zealand, reconciliation has been state initiated, but actively supported and encouraged by the local Church, again with the considered endorsement of the Holy See which recognised that:

In the past, some Christians in Oceania have... shared responsibility for political and social injustices. Not only individual Christians but also church leaders have committed errors, approved un-Christian actions or been passive before injustices.²⁸

During the nineteenth century and much of the twentieth, a narrowness of interpretation meant that the question of how the Church should respond to political

²⁶ John Paul II, *Ecclesia in Oceania* (Vatican City, 2001), para. 28.

²⁷ Dominic O'Sullivan, 'Pope John Paul II and Reconciliation as Mission'. *Pacifica: Australasian Theological Studies*. Special Issue', 19: 3 (2006), pp. 265-280.

²⁸ The General Secretariat of the Synod of Bishops and Libreria Editrice, *Instrumentum Laboris, Synod of Bishops for Oceania. Jesus Christ and the Peoples of Oceania: Walking His Way Telling His Truth and Living His Life*, p. 4.

decisions that compromised its magisterium was not always considered, and indeed these compromises often were not even identified. There was a common but erroneous view among Church leaders that politics was beyond their legitimate interest, an assumption which could justify inaction and promote indifference. Many maintained a rigid distinction between politics and religion, and did not widely consider the possibility that each had implications for the other. Yet at the same time those prelates who argued vociferously for the rights of indigenous peoples did so out of a sense of religious duty, not out of a sense of commitment to a political cause.

Land Rights, Self-determination and Reconciliation

Land rights and self-determination are preliminary to reconciliation and the three are inextricably connected, both theologically and politically. The Church recognises the right to acquire and hold land on the grounds of first occupancy because ‘first occupancy transgresses no existing law’, meaning that the property’s acquisition had not deprived nor injured another.²⁹ A further religious justification arises from the right to inherit property,³⁰ which is the ‘means by which the head can provide for the needs of the family’.³¹ The removal of land rights, therefore, impedes the fulfilment of family responsibilities and compromises subsidiarity, which is the guarantee of self-determination - a religious concept as much as it is political or jurisprudential - because it

follows from the belief that each person is unique, and created to the image and likeness of God. Each then reflects God’s beauty, intelligence, power, freedom

²⁹ John Egan, ‘Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility’, in F. Brennan, J. Egan, and J. Honner, eds, *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, (Blackburn, Vic.: Dove Communications, 1985), pp. 55-68 at p. 57.

³⁰ Leo XIII, *Rerum Novarum* (Vatican City, 1991), para. 13.

<http://www.vatican.va/holy_father/leo_xiii/encyclicals/documents/hf_l-xiii_enc_15051891_rerum-novarum_en.html> [accessed 11 April 2009]

³¹ Egan, ‘Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility’, in Brennan, Egan and Honner, eds, *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, p. 58.

and love. We are all called to be free, autonomous, self determining masters of our own destiny responsible for our own decisions.³²

The first implication of the right to self-determination is the right of all cultural groups to exist. It is through culture that identity is formed and through which human dignity is realised.³³ Frank Brennan, for example, has argued that for indigenous Australians, self-determination establishes the right to manage their communities on their own land ‘as autonomously as possible’,³⁴ qualified only by the requirement that the common good and the rights of others are not obstructed. This is because the resources of the earth exist for the benefit of all: ‘the right of every man to use material goods for his sustenance is prior to the right to property’.³⁵

In 1996 the High Court of Australia accepted an indigenous claim that native title to land was not automatically extinguished over Crown acquired land by the granting of pastoral leases to non-indigenous farmers, which had been long assumed, but never legally tested. The Court held that native title and pastoral leases could co-exist and leaseholders would have to negotiate with native title claimants to allow access to traditional lands. In the Prime Minister John Howard’s view, it was a ‘disappointing judgement’,³⁶ too favourable to the indigenous people.

The decision left the government to either accept the ruling or change the law. It could not simply extinguish native title because native title is a property right and section 51 (xxxix) of the Australian Constitution provides for the compulsory

³² Australian Catholic Social Justice Council, ‘Social Justice Sunday Statement’ (Sydney, 1978), p. 13.

³³ Egan, ‘Aboriginal Aspirations to Land: Unfinished History and a Continuing National Responsibility’, in Brennan, Egan and Honner, eds, *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, p. 63.

³⁴ Frank Brennan, ‘Social and Political Influences on Aboriginal Spirituality’, *The Way Supplement* 78 (Autumn 1993), pp. 80-104 at p. 95.

³⁵ Egan, ‘The Moral Basis of Land Rights’, in F. Brennan, J. Egan, and J. Honner, eds, *Finding Common Ground: An Assessment of the Bases of Aboriginal Land Rights*, (Blackburn, Vic.: Dove Communications, 1985), pp. 60-64 at p. 60.

³⁶ *Ibid.*, p. 60

acquisition of property only on 'just terms'.³⁷ Eventually a compromise arrangement was reached, but the preceding debate, as the government sought to secure leaseholders' exclusive occupancy, attracted an unprecedented level of Catholic interest in what was one of the most tense and controversial political debates in recent Australian history. For the Bishops' Conference, the debate's 'moral and ethical perspectives... [were] the proper competencies of the Church'.³⁸ The Catholic religious of Australia wanted

to comment in this debate... because we try to follow the Gospel in our lives and we try to follow the vision of Jesus Christ ... as religious men and women we see ourselves as having a responsibility to our fellow citizens, to work for and support decisions which help to create a more just and compassionate society.³⁹

Specifically, the Australian Catholic Social Justice Council was concerned that the proposed *Native Title Amendment Bill 1997* would unduly restrict the native title holder's right to negotiate access with pastoralists and miners, allow native title to be extinguished in unjust circumstances, and allow acquisition of native title rights so that pastoral leases could be upgraded to full and exclusive title.⁴⁰ The affront to dignity that these measures represented was that they all encroached on the indigenous capacity for self-determination because 'the balance of rights seems to unduly favour other titleholders to the detriment of indigenous people'.⁴¹

In their contribution to the debate, Michael Malone, Bishop of Maitland-Newcastle and his Anglican counterpart Roger Herft, emphasised the link between the

³⁷ *The Constitution of the Commonwealth of Australia* (Sydney, Constitutional Commission, 1987), 51 (xxxi).

³⁸ Australian Catholic Social Justice Council, 'Submission on the Native Title Amendment Bill 1997 to the Parliamentary Joint Committee on Native Title and the Land Fund', (Sydney: 15 October 1997), p. 1.

³⁹ Kevin Dance, 'Oral Submission to the Joint Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund Act', *Hansard Report* Canberra: Commonwealth of Australia, 16 October 1997), p. 1900.

⁴⁰ Australian Catholic Social Justice Council, 'Submission on the Native Title Amendment Bill 1997 to the Parliamentary Joint Committee on Native Title and the Land Fund', pp. 4-5.

⁴¹ *Ibid.*, 4.

Christological and the anthropological in a Christian approach to indigenous land rights. In an open letter to Howard, the bishops acknowledged the Prime Minister's work, but at the same time, pointedly implied that Howard was creating impediments to reconciliation and that his government's approach lacked 'moral integrity'. The letter was signed 'Yours in Christ, wounded, rejected, crucified on Calvary, yet risen, ascended, glorified and in whose presence none of us stand unblemished'.⁴²

This concluding remark made the connection between the political dimensions of reconciliation, which the letter addressed, and its Christological foundation and significance. It was a blunt criticism of the Prime Minister's handling of a political problem, yet by making their point in such obviously religious language they were also indirectly answering the criticisms of those who objected to the Church taking an active role in what was, for some, a purely political debate.

The Politics of Sorrow

The political/theological nexus in indigenous policy emerges strongly in the politics of public sorrow for the injustices for which past governments and generations have been responsible. Theologically, 'Jesus promised that his followers would know the truth, and that this truth would set them free',⁴³ which is politically significant because, as the Diocese of Broome's 1998 Sorry Day statement explained:

We are hoping that facing the truth of what happened to our indigenous people will free our nation from this dark and disgraceful chapter of our history, ensure that the effects of past actions will be addressed in the present and that such acts will not be repeated in the future.⁴⁴

In opposition, it has been argued that saying sorry necessarily imposes personal guilt on citizens who have no personal history of abuse against indigenous peoples. The Prime Minister, John Howard, was a leading proponent of this view.

⁴² Roger Herft and Michael Malone, Letter to Hon. John Howard, Prime Minister (Newcastle: 9 April 1998).

⁴³ Shane Wood, Media Release (Broome: 20 May 1998).

⁴⁴ Ibid.

I don't believe that current generations of Australians should be seen as responsible for deeds over which they had no control and in which they had no involvement.⁴⁵

Howard's view misinterprets the theological basis to sorrow: 'concepts of collective Catholic guilt are to be dismissed as theologically without foundation and, indeed, adding unnecessary confusion to the issue'.⁴⁶ What is important about sorrow is that it imposes 'a grave moral responsibility', 'to dispel the ideologies, ignorance and biases in which racist attitudes may still fester and largely be hidden from conscious awareness'.⁴⁷ There was consequently no moral integrity in the position that because the removal of children had been legal at the time it occurred, there was no obligation on the government to make recompense to those affected.⁴⁸ Indeed, while public attention has focused on Howard's refusal to say sorry his refusal to admit the propriety of compensation was at least as inhibiting of reconciliation. Government reluctance to admit a necessary relationship between sorrow and recompense remains an obstacle to reconciliation in Australia. Yet there are examples from New Zealand, which demonstrate the symbolic importance of saying 'sorry', and show that reparation, which includes sharing the benefits of an economy built on dispossession, is required as a consequence. In New Zealand the arguments are not about whether or not to provide redress, rather they concern the form and extent of that compensation.

In a public policy sense reconciliation is deeply misguided if it is concerned with personal guilt. Public reconciliation is grounded in theology but is not a substitute for the relationship between God and penitent in reconciliation's sacramental sense. It is

⁴⁵ John Howard, *Sydney Morning Herald*, 27 January 2000.
<<http://www.smh.com.au>> [accessed 27 January 2000]

⁴⁶ Christopher Prowse, *Racist Attitudes Towards Aboriginal Australians in the Light of Contemporary Catholic Concepts of Social Sin and Conversion*, p. 118.

⁴⁷ *Ibid.*, p. 118.

⁴⁸ Australian Catholic Bishops' Committee for Social Welfare, 'Submission To: Human Rights and Equal Opportunity Commission National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families' (Sydney, 1996), p. 58.

not intended to replace God with the body politic as forgiver of personal sin. Focusing on the personal rather than collective narrowed the focus on to the ‘demonising’ of individuals in isolation from the full context of acknowledging the past to build the foundations of a just future.⁴⁹

Political communities are concerned with the past, future and present not simply with events within the lifetime and control of any one individual. This long term focus means that personal culpability is not a requirement for individuals to take some share in the responsibility for putting right the wrongs of the past. The parallel with sacramental reconciliation is not therefore absolute. It is not guilty individuals, but citizens interested in a just political order,⁵⁰ who will realise reconciliation’s transformative capacity and complete the nexus between theology and politics in contemporary indigenous public policy.

When, in 2008, the new Prime Minister, Kevin Rudd, moved a motion of apology as his government’s first item of Parliamentary business the public’s widespread enthusiasm demonstrated that reconciliation was never entirely removed from public consciousness. Rudd’s speech, moving the motion, showed the simplicity of apology by acknowledging the significance of the past to the present and future in a way that Howard did not admit.

Reconciliation’s substantive concern is with the future. Rudd’s speech was ambitiously hopeful, perhaps to the point of prematurity in ‘respectfully request[ing] that this apology be received in the spirit in which it is offered as part of the healing of the nation. For the future we take heart; resolving that this new page in the history of our great continent can now be written’.⁵¹

⁴⁹ Muldoon, ‘Reconciliation and Political Legitimacy: the old Australia and the new South Africa’, 193.

⁵⁰ Ibid., p.194.

⁵¹ Kevin Rudd, *Apology to Australia’s Indigenous Peoples* (Canberra, 13 February, 2008).

Saying sorry is certainly concerned with a new page in national history, but reconciliation still requires further steps of truly tangible substance. Sorrow does not, on its own, 'remove a great stain from the nation's soul'.⁵² That is very much an on-going process and will occur only with trans-generational bi-partisan support and substantive policy developments of the sort the Prime Minister envisaged but as yet has been unable to put to the test of time.

Let us resolve over the next five years to have every Indigenous four-year-old in a remote Aboriginal community enrolled and attending a proper early childhood education centre... and engaged in proper preliteracy and prenumeracy programs... Let us resolve to use this systemic approach [also]... to provide proper primary and preventive health care for the same children, to begin the task of rolling back the obscenity that we find today in infant mortality rates in remote Indigenous communities - up to four times higher than in other communities.⁵³

The 'concrete steps' towards reconciliation, which Benedict XVI acknowledged to the Prime Minister during his World Youth Day visit to Sydney in 2008, reflect an important change in policy direction. In that sense the apology was 'courageous' as the Pope suggested. However, some time must inevitably pass before one can fully accept Benedict's remark that: 'This example of reconciliation offers hope to peoples all over the world who long to see their rights affirmed and their contribution to society acknowledged and promoted'.⁵⁴ What the Pope's observation, so soon after the Parliamentary apology, did show was the inescapable nexus between theological precepts and political decisions in indigenous public policy. The Pope confirmed the former Governor General William Deane's earlier observation that reconciliation is

< http://www.pm.gov.au/media/speech/2008/speech_0073.cfm > [accessed 12 October 2008].

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Benedict XVI, *Welcoming Ceremony Address of His Holiness Benedict XVI* (Sydney, 17 July 2008).

< http://www.vatican.va/holy_father/benedict_xvi/speeches/2008/july/documents/hf_ben-xvi_spe_20080717_welcome_en.html > [accessed 12 October 2008].

‘one of the most important theological issues confronting us as we approach the new millennium’.⁵⁵

Reconciliation assumes that the sin is actually forgivable. Or, as Derrida puts it, ‘forgiveness forgives only the unforgivable’.⁵⁶ Forgiveness is ‘an oddly idealistic theme’⁵⁷ and not surprisingly is the most readily overlooked condition for reconciliation. Yet for indigenous peoples overcoming distrust and accepting reparation in good faith requires forgiveness. Developing relationships of trust are essential preconditions of sustainable self-determination and truly peaceful co-existence. Forgiveness is acceptance of remorse and the willingness to accept recompense rather than to extract retribution.

An alternative to a Christian conception of forgiveness is that ‘for some acts nothing a person could do in a human lifetime, whatever his acknowledgement of wrongdoing and offers of compensation, would meet the requirements of forgiveness - some acts are unforgivable in principle as well as in fact’.⁵⁸ In some cases it is not possible to make reparation in proportion to the offence which could mean that reconciliation in a Christian sense is actually impossible. One can easily sympathise with indigenous peoples holding this view even when governments, which have enormous capacity to compensate for the injustices of their predecessors, offer sorrow. Yet if governments are willing to meet the conditions of sorrow in their entirety withholding forgiveness is likely to be counter-productive. Politically, reconciliation’s demand for forgiveness raises the benchmark of what constitutes fair reparation.

⁵⁵ William Deane in Phillips, ‘Aboriginal Reconciliation as Religious Politics: secularisation’, 112.

⁵⁶ Jacques Derrida in Janover, ‘The Limits of Forgiveness and the Ends of Politics’, *Journal of Intercultural Studies*, 32.

⁵⁷ Janover, ‘The Limits of Forgiveness and the Ends of Politics’, *Journal of Intercultural Studies*, 222.

⁵⁸ Lang in Janover, ‘The Limits of Forgiveness and the Ends of Politics’, *Journal of Intercultural Studies*, 112.

A further Christian, but limited, approach to the relationship between politics and theology in national reconciliation projects was that of the South African Truth and Reconciliation Commission, which illustrates the significance of intersecting the tangible with the symbolic. The Commission was a forum for public confession which did not address the reparative dimension. Theological notions of reconciliation were privileged over the political and as Muldoon put it: the Commission ‘turned into a kind of national purification ritual with the Commissioners assuming the role of secular divinities providing absolution for sins’.⁵⁹ The confessional model was limited by its focus on individuals. Although structural sin originates in human free will and individuals are morally culpable for their actions, the fuller picture is that apartheid was state policy implemented by state functionaries. The Commission had no coercive response to individuals who would not admit wrongdoing and it had no capacity to order reparation where wrongdoing was admitted

Theology and New Zealand’s Politics of Reconciliation

In 1990, the sesquicentennial year of the signing of the Treaty of Waitangi, John Paul II sent a Legate Extraordinary to Christchurch to celebrate a Solemn Mass of Reconciliation. The Legate, Godfried Daneels, Archbishop of Brussels, drew attention to general theological ideas with their political application being ‘the duty and privilege’ of the laity.

What I would like to do is reflect on the social doctrine of the Church... first, we should recognise openly the right of minorities to exist and to be fully themselves. This implies that majorities renounce their feelings of exaggerated superiority and that they see the value and the culture of indigenous people; and finally, that they renounce any remaining effects of former colonisation.⁶⁰

⁵⁹ Muldoon, ‘Reconciliation and Political Legitimacy: the old Australia and the new South Africa’, 192.

⁶⁰ Godfried Daneels, ‘Homily’, Cathedral of the Blessed Sacrament, Christchurch, *The New Zealand Tablet* (16 May 1990), xx-xx at 5.

Daneel's continued that: 'It is not the role of the Church to specify the political solutions which must be sought'.⁶¹ But:

Because we are followers of Jesus Christ and members of his Catholic Church we have insights to bring to 1990. Indeed we have an obligation to involve ourselves in the present problems of our country in light of the Christian principles expressed in the social teaching of the Church... it is the necessary task of the Church to promote the peace and justice and reconciliation which are a sign of God's future Kingdom and to call for that change of heart in men and women and in social arrangements which will lead already in this life to greater justice, peace and reconciliation among human beings and in society. By attending to the implications of its social teaching the Church will stimulate critique of the principles and structures which underlie the solutions being offered.⁶²

In New Zealand saying sorry has always been within the context of attempts at substantive redress, and in 1995 the *Waikato Raupatu Claims Settlement Act 1995* was the first of many settlements of Crown breaches of the Treaty of Waitangi that demonstrated the compatibility of symbolic gesture with 'practical' reconciliation of tangible substance. The Waikato settlement was the first agreement between the Crown and an iwi under legislation enacted in 1985, allowing the Waitangi Tribunal to investigate grievances dating back to 1840.⁶³ The settlement provided for the return of confiscated land and for monetary compensation, representing both reparation and a 'sharing of the fruits of earlier sins'. But, significantly the *Waikato Raupatu Claims Settlement Act 1995* began with an unreserved apology to the Waikato people. There was no government argument, as there has been in Australia, about who should say 'sorry' to whom and for what. It was accepted that it was for the Crown to say 'sorry' to Waikato for specific incidences outlined in the Act. For example, the apology was for the war between the Crown and Waikato in 1863, and for the loss of life resulting from what the Crown acknowledged was an 'invasion'. The Crown apologised for the confiscation of land and its 'crippling impact on the welfare, economy and

⁶¹ Ibid., p. 5.

⁶² Ibid, pp. 5-6.

⁶³ *Treaty of Waitangi Amendment Act 1985*, Section 3 (Wellington: GP Print, 1985).

development of Waikato'.⁶⁴ The Act, symbolically given Royal Assent by the Queen, rather than the Governor-General, accepted Waikato's contention that 'as land was taken, land should be returned' and that 'the money is the acknowledgement by the Crown of their crime'.⁶⁵ This acceptance indicated the Crown's acknowledgement of the legitimacy of reparation. The apology also accepted a relationship between Waikato's dispossession and wider socio-political exclusion.

The Crown recognises that the lands confiscated in the Waikato have made a significant contribution to the wealth and development of New Zealand, whilst the Waikato tribe has been alienated from its lands and deprived of the benefit of its lands.⁶⁶

Finally the apology, although not using the word reconciliation, reflected its principles and objectives.

The Crown seeks on behalf of all New Zealanders to atone for these, acknowledged injustices, so far as that is now possible, and... to begin the process of healing and to enter a new age... of co-operation.⁶⁷

Reconciliation was also an important underlying purpose behind the settlement with the Ngai Tahu tribe, for example. The Crown acknowledged that it 'acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngai Tahu in the purchases of Ngai Tahu land'.⁶⁸

The New Zealand Bishops' Conference acknowledged that while the Waikato settlement had involved compromise and there were still a number of unresolved issues of justice between Maori and the Crown, the settlement did reflect 'a glimmer of hope' The Bishops continued to say that: 'Not only the settlement, but the

⁶⁴ *Waikato Raupatu Claims Settlement Act 1995*. Part I, section 6 (3) (Wellington: GP Print, 1995).

⁶⁵ *Ibid.* Part I, section 6 (4).

⁶⁶ *Ibid.* Part I, section 6 (5).

⁶⁷ *Ibid.* Part I, section 6 (6).

⁶⁸ *Ngai Tahu Claims Settlement Act 1988*. Part II, section 6 (2) (Wellington: GP Print, 1988).

reconciliation it has fostered, has been a bold and positive step forward, the result of goodwill and negotiation'.⁶⁹

For the Church, Treaty settlements generally, are important because they give political effect to ideals which are clearly discernable in its theology. Treaty settlements have at once made apologies, without any suggestion that such is a response to guilt that might be apportioned to the present day descendants of those who perpetrated the initial injustice, and provided for substantive acts of compensation. Treaty settlements also give effect to the Catholic view that the right to development is much more than a right to social charity, even though justice does not necessarily require reparation to the extent that a strict assessment of the full extent of a claimant's financial loss might suggest. The burden such a financial requirement would impose on the whole community could compromise the common good.

There does, however, remain considerable public unease with the Treaty settlement process, and Maori claims against the state, more generally. More than twenty years after the first Treaty settlement it is clear that the public is tiring of the: 'Claims disposition, [which] dominated New Zealand politics in the 1990s'.⁷⁰ In 2004, in a speech which exploited this public unease, the Leader of the Opposition National Party, Don Brash, suggested that Maori benefited from a race-based public policy favouring them over other citizens.⁷¹ The allegation was popularly received and as a direct consequence the National Party's public opinion poll rating increased from 28% to 49% giving it a substantial lead over Labour which it only narrowly failed to

⁶⁹ NZ Catholic Bishops' Conference. 'A Statement on the Treaty of Waitangi in Today's Perspective' (Wellington 1 September 1995).

⁷⁰ Paul McHugh, 2005, 'Living with Rights Aboriginally: Constitutionalism and Maori in the 1990s', in M. Belgrave, M. Kawharu and D. Williams, eds, *Waitangi Revisited: Perspectives on the Treaty of Waitangi* (Melbourne: Oxford University Press), pp. 283-307 at p. 291.

⁷¹ For a detailed discussion of the speech and its implications see Dominic O'Sullivan *Beyond Biculturalism: the Politics of an Indigenous Minority* (Wellington: Huia Publishers, 2007).

hold at the general election almost two years later.⁷² Peter Cullinane, Bishop of Palmerston North, responded to the speech with an aptly titled article widely published in the Catholic Press: *Let us be Fair and Informed*. The Bishop observed that:

The difference between a claim to privilege based on race, and the claim to rights based on indigenous status and recognised by the very existence of the Treaty, has been blurred.⁷³

Brash's speech changed the nature of Maori policy debate and provided a new context for the Church to give secular expression to its long established moral framework for thinking about the place of indigenous peoples in colonial and post-colonial societies. In spite of the Treaty settlements there was a growing tension in Maori policy discussions. In June 2003, for example, in *Ngati Apa and Others v. Attorney General*, (CA 173/01 CA75/02, 19 June 2003) the Court of Appeal was asked the simple question. Does the Maori Land Court have authority to recognise Maori title to the foreshore and seabed? In simple terms the Court's answer was 'yes', but with the caution that the test for such consideration resulting in fee simple title was high and likely to be granted only rarely. The decision was followed by enormous political exaggeration of its implications. The Government accepted and fostered that exaggeration. The public response was one of alarm and it was seriously believed by many that the decision would mean Maori could and would deny public access to the entire foreshore and seabed. The Government's response, the *Foreshore and Seabed Bill 2004*, which provoked alarm from a Catholic perspective⁷⁴ because its intent was the expropriation of a possible Maori land right, allegedly to 'ensure that the public

⁷² Television New Zealand, 2004; New Zealand Electoral Commission, 2005.

⁷³ Peter Cullinane, *Let Us Be Fair and Informed* (Palmerston North, April 2004).
<Available from <http://www.catholic.org.nz/statements/0404treatybeinformed.php>> [Accessed 20 August 2004].

⁷⁴ Caritas Aotearoa-New Zealand. *Catholic Submissions on the Foreshore and Seabed Bill*. (Wellington, 2004).

foreshore and seabed is preserved in perpetuity for the people of New Zealand'.⁷⁵ Given however, that there was no Maori claim to deny public access, the political question arising from a moral consideration of the issue remains: is the extreme extinguishment of opportunity to recognise customary title to the foreshore and seabed necessary to protect the New Zealand common good?

In their submissions to the Parliamentary select committee considering the Bill Caritas Aotearoa-New Zealand and the Hamilton Catholic Social Justice Commission noted its racially discriminatory nature.⁷⁶ The latter noted two provisions in particular, which it considered fundamentally at odds with Catholic social thought. The first was its removal of access to due legal process from just one racial group, and secondly the Commission observed Pope Paul III's teaching, developed by subsequent Popes, that indigenous property rights can not be involuntarily extinguished.⁷⁷

Conclusion

Catholic thought on the rights of indigenous peoples has developed into a coherent body of teaching since 1245 when Innocent IV explained that settlers could not deprive indigenous peoples of their property or sovereignty. The Churches of both Australia and New Zealand made significant contributions to the development and application of this body of teaching during the 1980s and 1990s in particular.

Reconciliation looks beyond the immediate. It is not a policy prescription that can be achieved and put to one side within the typically short time frames of contemporary liberal democratic politics. But the question remains as Brennan has

⁷⁵ New Zealand Government, *Foreshore and Seabed Bill*, Clause 3 (a) (Wellington: GP Print, 2004).

⁷⁶ Caritas Aotearoa-New Zealand. *Submission to the Fisheries and Other Sea Related Legislation Select Committee on the Foreshore and Seabed Bill 2004*.

<<http://www.caritas.org.nz/nz/seabed.asp>> [Accessed 1 February 2005] and Dominic O'Sullivan and A. Tony Noble, 'Submission to the Parliamentary Committee on the Foreshore and Seabed Bill on Behalf of the Hamilton Catholic Diocesan Social Justice Commission', (Unpublished, 2004).

⁷⁷ Paul III. *Sublimis Dei* (Vatican City 1537).

<<http://www.csn.net/advent/docs/pa03sd.htm>> [Accessed 3 February 1998].

asked: ‘What are the signs of reconciliation? How do we know that it has arrived?’⁷⁸ In other words, how do we know when theological precepts of sin, conversion and forgiveness have had sustained influence over political programmes to the point that indigenous peoples’ quality of life and capacity to make decisions about the things that are important to them has been secured? Brennan’s own answer is that ‘Reconciliation, like justice is never perfectly achieved. Its celebration is not conditional upon perfect outcomes’.⁷⁹ But it is transformative and its celebration conditional upon the political goals of stability and cohesion, the granting of recompense, the just sharing of economic opportunities and uncontested recognition of the propriety of substantive indigenous political participation, land rights and authority over their own affairs because: ‘A peaceful and harmonious society is the fruit of justice, not of false understandings of what constitutes equality’.⁸⁰

⁷⁸ Frank Brennan, *Whatever Happened to Reconciliation?* (Australian Catholic University, 2007) <http://www.acu.edu.au/__data/assets/pdf_file/0006/51594/Whatever_Happened_to_Rec72.pdf> [Accessed 12 October 2008]

⁷⁹ Ibid.

⁸⁰ New Zealand Catholic Bishops’ Conference, *Cultural Diversity Statement* (Wellington, 2005).