Reconciling Diversity: A Personal View[1]

Graham Nicholson

Introduction

Most of the countries of the world have had bequeathed to them national communities that are an amalgam of diverse cultures and peoples of different backgrounds. The artificial lines on a map that define the geographic boundaries of the contemporary nation-state rarely delineate with precision the boundaries between distinct ethnicities, linguistic groups, racial groups, religious groups or other identifiable groups of people.

Boundaries are largely the accidents of history, having been defined in tandem with the emergence of the so-called '*sovereign'* nation-states over the last 300 years or so, and as a result of the competition and conflicts between those nation-states. The desire for ethnic uniformity is only one of many factors that have contributed to this definition, although undoubtedly it is an important factor.

In this regard, there seems to be a common human tendency to favour mutual self-identification and exclusive association based on some commonality and to pursue separation from others who are perceived as being different. The forces of nationalism have harnessed this tendency for the preservation of the state. As a result, the concept of diversity of peoples within one jurisdiction is sometimes seen as a negative thing, to be avoided in favour of uniformity and familiarity. It is said that the ideals of national unity, manifested by a centralization of power, a common language, culture and religion, fundamental to the self-identification of the state, tend to express themselves in intolerant attitudes and repression of those who were perceived as '*others*' (Thornberry, 1991, 1).

This tendency is still very strong today and can constitute a motivating force propelling particular nation-states towards greater ethnic uniformity, or at least to the assertion of the predominance of a particular ethnic group. It is frequently countered by forces operating in the opposite direction and favouring a greater degree of diversity. This can occur as a result of voluntary or involuntary migration, permanent or temporary, or as a result of emerging forces operating within a particular jurisdiction. Significantly, it is

[1] The footnotes to this paper have been added by the author since the paper was written and have been kept to a minimum.

also now being countered, in the latter part of this century,[2] by the new focus on universalism, a force that is as yet of subordinate strength to that of national sovereignty, but one that is rapidly gathering momentum.

The result is that in many countries there are now stresses being placed on the nation-state: stresses emanating from the movement downwards towards some form of differentiation or disintegration based on an ethnic or other form of distinction (Simpson, 1991, 69), and those pushing upwards towards some wider form of unity. In some instances, the nation-state is being torn and divided in the struggle between the conscious attitudes of individuals and groups. It is a struggle about values. These forces can be very powerful and should not be underestimated. In some cases this has lead to national fracture, in others it has manifested itself in the maintenance of extreme measures to preserve national unity, while in other cases it has led to expanding regional links in association with an ever-increasing degree of international interdependence and cooperation.

Australia of course was not and is not isolated from these momentous global movements. Human diversity existed even before the European settlement of the Australian continent. The Discussion Paper *Recognition of Aboriginal Customary Law* (SCCD, 1992, 7), records that there was, and still is, considerable diversity between the various Aboriginal laws and customs in different parts of Australia, accompanied by a great diversity of language, but with similarities in traditions, customs and practices. Although there were well developed local and regional relations among Aboriginal groups before European settlement, we have no knowledge of wider political or administrative structures as found in nation-states today.

European settlement of Australia obviously added a new and distinct element to our cultural diversity. In itself, this wave of immigration, which still continues, has provided a complex mix of peoples, with those of Anglo-Saxon or Celtic derivation predominating until comparatively recently. For a long time, the forces favouring ethnic uniformity exercised considerable influence in Australia, using methods such as the *'White-Australia'* policy. In more recent times, diversity has greatly increased, and the process of gradual absorption into the mainstream has been more than offset by the diversity of the new arrivals. There is now widespread acceptance of the concept of a *'multicultural'* Australia. There is still a degree of opposition

[2] Note: This is a reference to the latter part of the 20th century, when this article was written.

is some quarters to the immigration of people from certain countries who exhibit markedly different characteristics to the so called '*traditional'* Australian human profile. The situation has resulted in some stresses. Fortunately, demonstrations of intolerance and bigotry have not yet reached the scale and intensity of many other countries where they have resulted in widespread social disruption and violence.

These Australian developments must be seen as part of contemporaneous and greater global developments. These include the completion of the process of nation building in the post-colonial era, the much greater facility for communication and intercourse among nations, changing patterns of global migration and the increasing links between nations and peoples. The great diversity that exists in the human race is increasingly being reflected in the composition of the population of individual countries. The conditions, which in the past have made for ethnic uniformity, are weakening. In its place, there is a developing consciousness of our common global citizenship transcending this diversity and our national attachments.

To put it in the words of His Honour Justice Wilson '*Both economically and socially the earth is now likened to a global village…'* (*Koowarta v Bjelke-Petersen* (1982) 153 CLR 168, 248). This international perspective is increasingly being reflected in international law, as well as in the law of various domestic jurisdictions. In particular, it is evidenced in an explosion of interest in human rights. Thus, the international community has declared its abhorrence of intolerance and discrimination based on race, colour, language, religion, national or social origin etc. (see, for example, Article 2 of the Universal Declaration of Human Rights of 1948 and various other international instruments) and most countries now have entrenched bills of rights.

When viewed against this wider background, a nation-state which is trying to cope with significant minorities or diversity of peoples in its population basically has a threefold choice. Firstly, it can allow itself to be divided into more than one nation-state. Secondly, it can deliberately breach international law by adopting or maintaining discriminatory rules and practices favouring a particular group (extending in extreme cases to the use of force or violence against other groups such as is now happening in former Yugoslavia). Finally, it can accept the diversity and seek ways of adjusting its domestic arrangements to accommodate it in a manner that accords with international principles. That accommodation may, in appropriate cases,

involve a measure of devolution or sharing of power based on ethnic or other lines, designed to meet demands for increased participation by minorities or indigenous groups in the business of government as it affects them. Assuming for present purposes that division into more than one national state is not a practical option for Australia, and assuming also that Australia does not wish to deliberately breach international law in this manner, this leaves the last option, that of '*accommodation*', or perhaps to use a more constructive word, that of '*reconciliation*'. It is to this approach that attention is increasingly being directed, as witnessed by the recent passage of the *Council for Aboriginal Reconciliation Act* 1991, although in that case limited to Aboriginal/non-Aboriginal relations. In the Australian context, it is my submission that any proposals for reconciliation, although obviously having to take into account the unique position of the Aboriginal people as the indigenous people of this continent and their special concerns, should not concentrate solely on those people, but must take into account the wider diversity that now exists. Such proposals should also take into account the great diversity that still exists among the Aboriginal people themselves, ranging from those who still lead traditional lifestyles and speak their own languages, to those leading western lifestyles with little or no traditional links. These differences are particularly noticeable in the Northern Territory.

Reconciliation can of course occur in a variety of ways. It might result, for example, at least on a short to medium term basis, from the subordination of one set of interests to another. However, it might be asked whether this can fairly be described as a true form of reconciliation at all. Reconciliation seems to carry with it the concept of equality, not dominance. Historically, the former has often been absent in the relations between majority groups and minorities or indigenous groups.

For those who might be committed to a fairer form of reconciliation, some might view it primarily as a legal matter to be dealt with by appropriate constitutional or legislative means designed to recognize the rights of minorities and indigenous peoples. Others may regard it as primarily a financial matter to be addressed by adequate funding or other material arrangements. In my view, both these approaches are inadequate. For any form of meaningful reconciliation of diverse interests to occur within one nation on a long term basis, it is most important that it be based on the right principles; that is, that it be reconciliation on a fair and equitable basis for all concerned. All persons, irrespective of race, culture, language, religion etc

should be regarded as having an equal place in the society and a right to participate fully in that society and in decisions that affect them. It should be a form of social partnership on equitable lines. For this to occur, there must be a significant degree of mutual trust, respect and understanding.

Further, reconciliation of diversity cannot involve any quest for the elimination of that diversity unless the respective participants voluntarily choose otherwise. The word reconciliation in this context necessarily involves two or more groups and has a meaning relating to the establishment between them of harmony and concord, of good relations, of unity but not uniformity. A form of reconciliation that concentrates solely on the acquisition of power and authority by any one group, without regard to the interests and unity of the whole, is a recipe for further conflict. To succeed, in my opinion it needs to stem from an appreciation of the uniqueness and variety of race, culture, language and religion that exists within the human family generally and within the Australian nation in particular. This diversity should be seen as something of manifest beauty, to be valued in itself, and not something necessarily inconsistent with a wider unity. Variety, and not uniformity, is at the base of organic society. Affiliation with a mother race, culture, tongue or religion should not exclude an appreciation of other races, cultures, languages or religions. Rather, one should view them as part of the common heritage of all humankind. The respective contributions that each group has to make to the whole should be seen as a factor that strengthens and enhances the beauty and richness of the whole. Reconciliation from this point of view involves a willingness to contribute and to share, an openness as opposed to any form of exclusivity, a recognition that each group has a wider loyalty in the common interest. Ultimately, it must extend to a recognition of our common humanity and that on this small planet there is really only one race, the human race. It would be in my submission a grave mistake to regard such a process of reconciliation as purely a legal exercise, to be accomplished through appropriately worded black letter law, even at an entrenched constitutional level, plus the legal means of enforcement. Nor is it just a matter of spending more money.

Civil definitions of political and economic status and entitlements, if devoid of ethical value and entitlements, are not equivalent to essential human rights, but express the expedients of partisan policy. Reconciliation, because it involves such a wide range of human issues, must be multifaceted to be effective. It must, as I have already indicated, be principle based, and

be primarily concerned with attitudes and values. These are matters deeply entrenched in the human psyche and are not easily changed. A tremendous effort is required by the various groups comprising our population if their outlook and conduct is to reflect this conciliatory, partnership type of approach. On the part of some, it may be a matter of abandoning once and for all their inherent and sometimes subconscious sense of superiority, of correcting their tendency towards revealing a patronizing attitude towards other groups, of persuading the other groups of the genuineness of their friendship and the sincerity of their intentions, and of mastering their impatience of any lack of responsiveness on the part of these other peoples who may have received, for so long a period, grievous and slow healing wounds. On the part of others, it may be a matter of a corresponding effort on their part to show by every means in their power the warmth of their response, their readiness to put aside their past and their ability to wipe out every trace of suspicion that may still linger in their hearts and minds. No groups or individual must think that the solution to so vast a problem is exclusively the concern of the other. No person must feel absolved from the obligation to make an effort to develop a conciliatory, non-prejudiced attitude. Sincere and tactful efforts should be made to extend this approach into the education system, to the media, to the family, into social and economic affairs, into inter group activities and cultural awareness programs, to personal morality and religion as a well as by changes to the legal system.

An example of the keen awareness of the need for a broad-based approach in dealing with one specific issue was recently displayed in the Report of the Royal Commissioner into Aboriginal Deaths in Custody (Johnston, 1991). Reconciliation of diversity within Australia, based on such a comprehensive approach and designed to maintain and enhance the harmonious and tolerant nature of Australian society, is clearly a far greater task than that addressed by the Royal Commissioner. It is a matter that is well beyond the scope of this paper to deal with other then in the most rudimentary way. However it is a task of great importance, and should be constructively addressed on an on-going basis by every Australian from political leaders downwards. It should be espoused as a national priority goal. It should not be a matter to be shelved, relying on such generalised myths as Australian egalitarianism and fair mindedness. To do so may be to run the risk of allowing any festering divisions, prejudices and antagonisms to reach the point of social and economic dislocation, to be then dealt with as a matter of crisis

management. We have seen the unfortunate consequences of this approach in other countries.

Law and Human Rights

Subject to these wider considerations, there is no doubt that the law still has a significant role to play in any process of reconciliation. It is appropriate in this paper to consider this legal aspect more fully, given that this conference[3] has as its theme the matter of contemporary constitutional change.

It may be of some value to compare briefly the international legal approach to diversity in the human family. In a sense, the international system can be viewed as a global nation, incorporating within it the multitude of diverse nationalities and ethnicities in a wider and as yet very imperfect world order. Most people would agree as to the vital necessity of maintaining a reasonable level of peace and security within the global family of nations. Given the level of interdependence that now exists between those nations and their peoples, many would agree that for peace and security to exist, there must be some form of just accommodation or reconciliation between the diverse interests of those nations and peoples. As an integral part of that accommodation or reconciliation, many may also agree that the developing global jurisprudence of human rights has a critical role to play. Legal theories which might in the past have limited or excluded such a role, such as the strict positivist school of jurisprudence, with the associated theory of unlimited state sovereignty, may have contributed to the many gross abuses of human rights that may have occurred over this century under the protective umbrella of the doctrine of the non-interference in domestic national affairs. Such theories have increasingly given way in recent times to the perception that certain minimum legal standards of treatment should be observed by all nations and peoples. National standards and practices should be measured against these wider international standards and national governments should be held accountable in the international arena for any failure to meet those wider standards.

The international community, through the auspices of the United Nations, has expounded on the law as to human rights at some length. The Charter of the United Nations expressly affirms the faith of the peoples of the United

[3] The Conference referred to is the Constitutional Conference held in Darwin, Northern Territory of Australia in 1992 *"Constitutional Change in the 1990s"*.

Nations in fundamental rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small (Second Preamble). It expresses some of the purposes of the organization as being respect for the principle of equal rights and self-determination of peoples and the promotion and encouragement of respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (article 1.3, and see also articles 13.1b, 55, 56 and 76c). These provisions are in turn reflected in the Universal Declaration of Human Rights of 1948, which is declared to be a common standard of achievement for all peoples and all nations. Article 2 provides that everyone is entitled to all of the rights and freedoms set forth in the Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth and other status. However neither the Charter nor the Declaration makes express provision for the rights of minorities or indigenous peoples.

The other two arms of the International Bill of Rights, namely the International Covenant on Economic, Social and Cultural Rights of 1966 and the International Covenant on Civil and Political Rights also of 1966, both expand upon the rights of individuals, to be applied without discrimination, although each from a different perspective. They have one provision in common in that they provide in article 1 that all peoples have a right of self-determination, and by virtue of that right may freely determine their political status and freely pursue their economic, social and cultural development. In addition, article 27 of the International Covenant on Civil and Political Rights states that in those states with ethnic, religious and linguistic minorities, persons belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to enjoy their own language. This is a fairly limited right and contrasts starkly with the broad terms of article 1, a fact that has been said to invite implications as to the intended operation of article 1.

The international concept of "*self-determination*" has proved to be somewhat elusive, particularly in its application to minorities and indigenous groups. There is a debate about the groups to which it is capable of extending and about what the right encompasses. Initially it was envisaged by some states as applying to the re-establishment of former countries occupied during World War II, extending in the post-war demise of colonial empires to the grant of national independence to former colonial territories –

the so-called "*salt water*" doctrine, being applicable to countries separated geographically from former colonial rulers.

More recently, with the explosion of interest in the rights of minorities and indigenous peoples, strenuous efforts have been made to extend the international concept of self-determination to those minorities and indigenous peoples within existing nation-states. However, such claims have yet to find their way into express and detailed guarantees in multi-lateral international agreements[4]. The reasons for this are not hard to find. The individual nation-states forming the international community generally place great importance on territorial integrity and unity and display a distaste for geographical fragmentation and any resultant destabilization of their social and political structures. The achievement of national division is often only possible at the expense of violence and bloodshed. There is therefore considerable resistance, not always openly expressed, to any international formulation of a right which could be used to justify claims by minorities and indigenous people to completely separate development.

On the other hand, attempts to distinguish between internal and external self-determination, with the former being a restricted right applicable within the framework of existing nation-states, have so far held little appeal for many indigenous representatives in international forums (Brennan, 1991, 120-1). Notwithstanding this reluctance, the view is gaining ground that internal self-determination is an aspect of the international right, and that in some cases it can provide an acceptable and appropriate solution. The right, if it exists, is sometimes described as one of self-management, self-sufficiency (see section 3(b) of the *Aboriginal and Torres Strait Islander Commission Act* 1989[5]) or self-government (Jull, 1992; Jull and Roberts, 1991). The Australian Government in recent times has sometimes preferred to use the term "self-determination", although this is presumably a term of domestic meaning without any guaranteed legal content.

All of these refer to some degree of autonomy to be exercised by and by reference to an identifiable group within national borders, although the content of any grant of autonomy may be variable from country to country.

[4] However in 2007, since this paper was written, The UN General Assembly adopted the *Declaration on the Rights of Indigenous Peoples*, Articles 3 and 4 of which affirm the right of indigenous peoples to self-determination, although note the qualification in Article 46.1 restraining challenges to the territorial integrity or political unity of the state. Australia initially voted against this Declaration, but in 2009 indicated it now supported it.

[5] Since repealed.

The term "*autonomy*" does not have any fixed meaning at international law (Hannum & Lillich, 1980), nor at domestic law. The options are vast. The form and extent of any such grant will very much depend upon the particular circumstances of each country and the extent of the commitment by those in authority (both at federal and regional levels) to devolve part of their authority. Moreover, given the inherently dynamic nature of constitutional arrangements, it cannot necessarily be assumed that the position will remain static once any grant of autonomy is made.

Although these international legal developments have not yet reached finality, with work still proceeding on the further definition of the international rights of minorities and indigenous peoples, there is a degree of consensus emerging that would give particular legal emphasis to their rights where they comprise distinct communities within any one nation state. In the case of indigenous peoples, there are also considerations arising from the fact that their rights already existed before settlement by others. There is said to be measure of truth in the remark that all human rights exist for the protection of minorities, because such human rights generally exist for the weak, the vulnerable, the dispossessed and the inarticulate. The strong may have less need for human rights, at least in a democracy committed to majority rule (Thornberry, 1991, 38). In part, this emerging emphasis may be said to be derived from the express right to self-determination and also article 27 of the Covenant on Civil and Political Rights. In part, it is the result of indirect protection arising from many other international texts of more general application which contain provisions of particular relevance to minorities and indigenous groups. Examples are, the Convention on the Prevention and Punishment of Genocide 1948, the Convention on the Elimination of Racial Discrimination 1963, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief 1981, and the Helsinki Declaration on Security and Cooperation in Europe 1975. Also of relevance is the ILO Convention No 169, 'Concerning Indigenous and Tribal Peoples in Independent Countries'.[6] More importantly, there is an increasing awareness of the unique problems faced by these groups within nation-states and a greater expression and exchange of these concerns by and between these groups and their representatives. The international community as a whole is becoming more concerned about the inequitable treatment often extended to these groups by states.

[6] See now the Declaration on the Rights of Indigenous Peoples of 2007.

It is inevitable that this international expression of concerns for minority and indigenous rights will increasingly impact upon domestic legal systems and in some cases will lead to grants of greater autonomy or the establishment of a more equitable social partnership of some kind.

Beyond the questions of autonomy and social partnership, there are those that would argue that the domestic constitutional regime should give particular recognition to the special status and contribution of minorities and indigenous peoples within the nation-state. This recognition, it can be argued, should afford them certain basic rights, capable of enforcement through independent judicial bodies and which cannot be easily derogated from by the will of the majority. If necessary, this form of recognition should be given special constitutional status by a form of entrenchment.

At present, such forms of constitutional protection are totally absent in Australia, both at the federal and state levels. To a limited extent, the process of granting protection by indirect means has been achieved in Australia by ordinary legislation at national, state and territory levels. Examples include the *Racial Discrimination Act* 1975 and the *Human Rights and Equal Opportunity Commission Act* 1985, as well as State equal opportunity legislation. In the Northern Territory reference can be made to the *Aboriginal Land Rights (Northern Territory) Act* 1976 of the Commonwealth and Territory legislation such as the *Aboriginal Land Act* and the *Northern Territory Aboriginal Sacred Sites Act*.

Australia has not so far gone further to adopt any form of constitutional recognition or entrenchment of minority or indigenous rights, unlike some other countries. Canada, for example, has already constitutionally entrenched certain general rights of relevance as well as indigenous treaty and customary rights and has considered the entrenchment of a right to self-government (SCCD, 1992, 33-35)[7]. There have been proposals that the Australian Constitution should, as part of the reconciliation process, recognize the Aboriginal and Torres Strait Islander peoples as the indigenous peoples of Australia (see, for example, the Concluding Statement of the Constitutional Centenary Conference 1991, agenda item 10(3)).

[7] It is now considered that the existing entrenchment of Indian rights in the Canadian Constitution's Charter of Rights and Freedoms extends to a right to self-government.

The Sessional Committee of the NT Legislative Assembly on Constitutional Development has given some consideration to this issue in the context of developing proposals for a new Northern Territory Constitution. This includes the possibility of a non-enforceable preamble to give particular recognition of the place of Aboriginal citizens in contemporary society, and the possibility of going further to include reference to their historical rights, including land rights. The Committee also expressed the view that there was undoubtedly some merit in recognizing the pre-existing circumstances of Aboriginal citizens, including their language, social, cultural and religious customs and practices. The Committee added that having regard to the desirability of maintaining harmonious relationships within the new state, it is preferable that any such recognition should be in a form acceptable to the broader new state community and compatible with its multi-racial, multicultural nature and the principles of equity and non-discrimination. The exact form this recognition should take was a matter for consideration (SCCD, 1987). No doubt this will be considered further by the Committee in due course.

The advantage of entrenchment is that it removes the possibility of a statutory amendment in accordance with normal parliamentary procedures. The degree of entrenchment can be adapted to meet the particular circumstances and the level of protection required. Entrenchment can occur by constitutional change at a national level or at a state level.[8] In the case of a self-governing territory, a national statute has effect as a form of entrenched provision as far as the self-governing territory is concerned, although not from the perspective of the national parliament. Whether the national parliament should, as a means of entrenching certain rights, legislate for a territory such as the Northern Territory, at least without adequate Territory consultation, is an issue for consideration. On the other hand, there may be good arguments as to why the Northern Territory, in developing its own Constitution, should consider the adoption and entrenchment of certain guarantees, including minority and indigenous rights (SCCD, 1987, 82-85).[9] The Sessional Committee of the NT Legislative Assembly has pointed out that entrenchment in a Territory constitution can

[8] Subject to any constitutional limitations.

[9] The view has been expressed elsewhere since this paper was written that it may not be constitutionally open in Australia under the founding constitutional documents for a new State to entrench such provisions in a new State constitution, but the writer does not agree with this view. A full discussion of this topic is not possible in footnotes to this paper.

provide a legal method of safeguarding Aboriginal interests as to land, law, language and religion (SCCD, 1989, 4-5).

Conclusion

The question of whether measures should be taken to promote reconciliation of diversity within Australia, and in particular between the indigenous people and other Australians, is one that is not going to go away. It is a question that will have to be considered in detail and addressed in a meaningful way at all levels of Australian society. In my opinion, for reasons already outlined, it is an issue that transcends the question of any legal formulation of rights, or the question of any constitutional guarantees or that of financial arrangements. It is an issue that relates to the type of society we want in Australia, the values upon which it is to be based and whether it is to be harmonious, fair and tolerant of diversity.

Beyond the question of harmony, fairness and tolerance at a national level are much broader issues arising from the increasing levels of interdependence in a steadily shrinking world, one in which all member states and their peoples now find themselves in a minority. The necessity for international peace and cooperation increasingly demands a new approach to diversity at this higher level, a new world system '…in which all nations, races, creeds and classes are closely and permanently united, and in which the autonomy of its state members and the personal freedom and initiative of the individuals that compose them are definitely and completely safeguarded' (statement of the Baha'i International Community to the United Nations Seminar on 'The Promotion and Protection of Human Rights of National, Ethnic and Other Minorities' Yugoslavia, 25 June – 8 July 1974). This requires the acceptance of the principle of unity in diversity, a recognition that we all dwell in one world and that variety is a vital aspect of that world, to be valued and preserved.

These issues raise profound legal, social, moral and spiritual questions affecting the global society. Unless the solutions to the existence of diversity at local, regional, national and international levels reach to matters of principle, and are not merely based on pragmatic political considerations or as part of some quest for power or self-gain, they will not be such as to justify identification as an effective form of reconciliation.

References

Brennan F, 1991. *Sharing Country*, Penguin, Ringwood, Victoria.
Hannum H & Lillich R, *The Concept of Autonomy in International Law*, American Journal of International Law, 74, 838.
Johnston E, 1991, *National Report, Royal Commission into Aboriginal Deaths in Custody*, AGPS, Canberra.
Jull P, 1992, *The Constitutional Culture of Nationhood, Northern Territories and Indigenous Peoples*, North Australia Research Unit, Darwin.
Jull P & Roberts S (eds), 1991, *The Challenge of Northern Regions*, North Australia Research Unit, Darwin.
Select Committee on Constitutional Development, 1987, *Discussion Paper on a Proposed New State Constitution for the Northern Territory*, Legislative Assembly of the Northern Territory, Darwin.
Select Committee on Constitutional Development, 1989, *Entrenchment of a New State Constitution*, Legislative Assembly of the Northern Territory, Darwin.
Sessional Committee on Constitutional Development, 1992, *Recognition of Aboriginal Customary Law*, Government Printer, Darwin.
Simpson GJ, 1991, *New Developments in the Law of Self-Determination* in Proceedings of the International Law Weekend, Australian National University, Canberra, 69-75.
Thornberry P, 1991, *International Law and the Rights of Minorities*, Clarendon, Oxford.

Note: This paper was published in Gray, Lea and Roberts (Eds), *Constitutional Change in the 1990s* (NT Legislative Assembly Sessional Committee on Constitutional Development and NARU, ANU, Darwin, 1994), 145.