ABSTRACT
This article examines the theological idea of reconciliation and what this entails, including repentance as mind change, honest confession of wrong, lament for the hurt caused by the wrong, apology, restitution as concrete action to make right, and a mutual trust or unification to build a new, harmonious relationship. However, it also recognizes the potential danger of a purely colonial approach and draws on the Indigenous concept of Makarrata to inform and augment the Christian notion of reconciliation so that it is more relevant to the Australian context. Second, the article briefly considers potential constitutional change which is compatible with Australia’s legal system and could reflect and build upon a new relationship. The article argues that, as Makarrata exhorts, reconciliation is not merely symbolic but must be facilitated by active and tangible change which brings all Australians, Indigenous or otherwise, together – and that this is also a fundamentally Christian imperative.

KEYWORDS
Reconciliation; repentance; Christian theology; Makarrata; recognition; Indigenous Australians; constitutional change

Introduction
This article explores the issue of reconciliation and constitutional recognition of Indigenous Australians from a Christian perspective. The term “reconciliation” derives from the Christian theological tradition and is primarily based in the transcendent relation between God and humanity, with applications for interpersonal relationships (and more broadly, political and communal relationships).1 As such, the article outlines a theology of reconciliation and its particular elements, including repentance as mind change, honest confession of wrong, lament for the hurt caused by the wrong, apology, restitution as concrete action to make right, and a mutual trust or unification to build a new, harmonious relationship. However, the article also recognizes the potential danger of a purely colonial approach and draws on the Yolngu concept of Makarrata to inform and augment the Christian notion of reconciliation so that it is more relevant to the Australian context. As Makarrata means a “coming together after a struggle,” it also involves repentance, confession, lament, restitution and building a new relationship. Though I am not myself an Indigenous Australian, my work occurs within a broadly Christian tradition in Australian constitutional law. The similarities between Christian

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reconciliation and Makarrata provide the basis for a theoretical exploration of reconciliation in the context of Indigenous Australians. This article consequently proposes that true reconciliation is realized by “recognition” manifested through constitutional change.

Australia was a series of colonies which federated into a Commonwealth in 1901. Each state has its own constitution but there is a national or Commonwealth Constitution, which is what I refer to in this article. The Commonwealth Constitution sets out the powers of the national government and all national legislation must be empowered by it and consistent with it. It is a written, rigid constitution which is difficult to amend.2 The idea of constitutional recognition lies on a spectrum from mere symbolic acknowledgement to the creation of concrete and substantive rights, and there are a broad range of views grounded in various perspectives and the experiences of other jurisdictions.3 The recognition campaign has always been about a “package of measures that includes symbols, legal and political reform, and rights” which will enable First Peoples to be empowered and have space to play an active role in the nation.4 Though it is sometimes said there is no consensus on the specifics of recognition, Davis and Langton argue their edited volume demonstrates a consensus that “weak” recognition is not enough. Mere symbolism through an acknowledgement, or even simply repealing the “racist” provisions of the Australian Constitution, is insufficient.5 Of course, as former Chief Justice of the High Court of Australia, Robert French, reminds us, the role of symbolic recognition is not negligible, and should not be dismissed – for example, Welcomes to Country and Acknowledgements of Country presumably have some impact on the awareness of society and institutions.6

Thus, on the basis of a Christian theology of reconciliation informed by Makarrata, this article explores different options for constitutional change. It argues that true reconciliation entails not only symbolic acknowledgements, but tangible and substantive changes as well. It does not argue specifically for any particular substantive changes; rather, it considers some of the different options using the articulated theology of reconciliation as a principle. This novel approach to the debate will provide a foundation for future research which will have the additional benefit of appealing to Christians (or others sympathetic to Christianity) who may be wary of calls for constitutional recognition of Indigenous Australians. Proposals for substantive Indigenous recognition tend to produce resistance, particularly from conservatives, and a robust Christian perspective may mitigate this.7 On the other hand, hearing Indigenous perspectives expressed through Makarrata contributes to a true “coming together.” Particular themes discussed such as harmony and social peace may further have parallels in other faith traditions and therefore the discussion that follows could also be of value to non-Christian readers.

Part II of the article provides conceptual foundations by first outlining a Christian perspective on reconciliation. However, an obvious objection at the outset is whether using a

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2See generally Aroney, Constitution of a Federal Commonwealth.
3See e.g. Young, Nielsen, and Patrick, Constitutional Recognition of First Peoples.
4Davis and Langton, “Introduction,” 3–4.
5Ibid., 7.
6Robert French, ‘Book Forum on Dylan Lino’s Constitutional Recognition: First Peoples and the Australian Settler State’ on AUSPUBLAW (14 August 2019): https://auspublaw.org/2019/08/book-forum-the-hon-robert-french-ac/.
7Cf. Freeman and Morris, The Forgotten People. See generally http://www.upholdandrecognize.com/publications, which has resources discussing recognition from a conservative perspective.
Christian perspective is an exclusionary colonial approach which may paternalistically alienate Aboriginal and Torres Strait Islander peoples, and simply reinscribe the injustice they have experienced. I address this formidable objection in Part II by drawing on the principles of Makarrata to inform the Christian perspective for the context of Australian reconciliation. Part III builds upon these conceptual foundations by articulating a Christian theology of reconciliation in detail, focusing on relevant biblical texts and delineating the specific elements which reconciliation entails. Here I also explain how this Christian view of reconciliation is augmented by Makarrata. In Part IV I briefly consider a symbolic constitutional change such as recognition of First Nations people in the preamble of the Australian Constitution, arguing that recognition in the preamble can have a significant influence on society and institutions. However, merely symbolic recognition is not enough for most Indigenous advocates, and it also does not properly reflect the entirety of what Makarrata or a Christian theology of reconciliation entails. More substantive changes are necessary, and I consider three of these in Part IV: beneficial amendment of the race power, treaty and self-determination, and a voice to Parliament. In Part IV I indicate how each of these changes are consistent with (or even necessarily entailed by) a Christian theology of reconciliation informed and augmented by Makarrata. Part V therefore concludes that as reconciliation is an essential part of Christian theology as a matter of general principle, so indigenous reconciliation and consequent substantive recognition informed by Makarrata is a Christian imperative.

Conceptual foundations

A “Christian” perspective

It is important to initially note that this is “a” Christian perspective on reconciliation. It is not the only perspective or the definitive perspective. Naturally such things are intrinsically contestable, but it is a Christian perspective largely based in the theology of philosopher-theologian John Milbank. It is grounded in and consistent with Christian theology more broadly (as seen in this part) and biblical text (as seen in the following part). It is not constrained to any particular denomination. In general, reconciliation is about making peace, and this is sourced in God Himself. To articulate an alternative Christian foundation for a community based on true peace rather than violence, Milbank proposes the model of the Trinity, God as three divine persons with one divine nature: Father, Son and Holy Spirit; this is an “infinite relation” of love and perfect peace, since God as Trinity is both unity and “himself community” – which can therefore be a “differential ontology,” or a mode of being which allows the harmonious existence of difference in a community.8 So ontological peace is the affirmation of Being as the harmonious ordering or co-existence of difference. Peace itself therefore also is beyond virtue because peace is the final end and condition in which virtue can flourish, the culmination of Being itself – or, as above, the harmonious ordering of difference.9 Thus, the new Christian imagination of peace can be more elegantly defined as “the reconciliation of virtue with difference.”10 The Trinity is a tri-unity, a union of

8Milbank, “Postmodern Critical Augustinianism,” 274.
9Milbank, Theology and Social Theory, 367.
10Ibid., 332–333.
three different persons or “members” in a community. So Christian Trinitarian ontology reconciles the one and the many, promoting peace through the unity of different individuals and groups which constitute a community.\(^{11}\)

In this way Christian theology reimagines community in light of the ultimate good, a final and perfect reconciliation of God and humanity. As such, conceptions of the “below” (human subjectivity and relationship) are only constituted within the narrative that simultaneously postulates the “above” (transcendence).\(^{12}\) Christianity pursued from the outset a universalism which tried to accommodate rather than merely abolish difference: Christians could live in their different societies yet are fundamentally united in the Body of Christ and as citizens of the eternal city, the City of God.\(^{13}\) Where there is conflict within or between such communities in the earthly realm, Christianity advocates showing kindness to the sinner with the hope that they will see their alienation is through their own action, and that forgiveness from the community and reconciliation to the community is possible because of Christ.\(^{14}\) His incarnation, crucifixion and resurrection – his selfless sacrifice for the good of the other – restores the relationship and brings peace.\(^{15}\) Incarnation also means that participation in the divine relational life is restored. The asymmetrical relation to God of the creation is repaired by the action of God himself (Christ as the paradoxically finite human and infinite divine), resulting in the “paradox of relational reconciliation.”\(^{16}\)

An eloquent summary of the situation may be given by quoting Milbank at length:

Christians worship the one true God who originates all finite reality in an act of peaceful donation, willing a new fellowship with himself and amongst the beings he has created. In “the heavenly city”, beyond the possibility of alteration, the angels and saints abide in such a fellowship; their virtue is not the virtue of resistance and domination, but simply of remaining in a state of self-forgetting conviviality. Here there is nothing but “the vision of peace”, a condition that originally pertained also for the temporal creation, before the sinful assertion of pride and domination introduced a pervasive presence of conflict leading to death in both society and nature ... this salvation takes the form of a different inauguration of a different kind of community. Instead of a peace “achieved” through the abandonment of the losers, the subordination of potential rivals and resistance to enemies, the Church provides a genuine peace by its memory of all the victims, its equal concern for all its citizens and its self-exposed offering of reconciliation to enemies. The peace within the city walls opposing the “chaos” without, is, in fact, no peace at all compared with a peace coterminous with all Being whatsoever.\(^{17}\)

Thus, Christian theology in the peaceful gift of self-giving provides a unique way of reconciling difference with virtue and producing peace.\(^{18}\) As Milbank observes, this is because “the distinctiveness of Christianity, and its point of difference with antiquity and modernity,” is its emphasis on reconciliation.\(^{19}\) Peace in this sense is not merely the absence of violence, but a broad and positive harmonious co-existence which

\(^{11}\) Deagon, *From Violence to Peace*, 6–7.
\(^{12}\) Ibid., 81.
\(^{13}\) See Milbank, “Postmodern Critical Augustinianism,” 266–268.
\(^{14}\) Deagon, *From Violence to Peace*, 143.
\(^{15}\) Milbank, *Being Reconciled*, 100.
\(^{16}\) Deagon, *From Violence to Peace*, 159.
\(^{17}\) Milbank, *Theology and Social Theory*, 394.
\(^{18}\) Deagon, *From Violence to Peace*, 175.
\(^{19}\) Milbank, *Theology and Social Theory*, 423.
builds virtue and solidarity. So in the context of sin or injustice, the Christian vision of reconciliation implies that the aim is not only to restrain the evil action, but always to restore the offender and promote redemption.\textsuperscript{20} Here, the practice of forgiveness nevertheless involves a practice of restitution, because forgiveness is a gratuitous self-offering beyond what is demanded. Christ again is the ultimate model for this, since he offered himself for forgiveness of sins when he was under no obligation to do so. Hence, wrongs must be put right by rectification and restoration, or if this is not possible, some other means which demonstrates a will to harmony among human beings.\textsuperscript{21} “The practice of forgiveness, as surplus to any system of desert or obligation, is able creatively to break out of the blindness induced both by the wrong act of the offender, and by the corresponding anger of the victim.”\textsuperscript{22} As these practices inhere in the interactions of individual persons, it will constitute a community of peace modeled on the relations between the members of the Tri-Unity, graciously enabled and revealed in Christ. This beautiful relationship of love exchange and receipt between members of a community is possible because of the revelation of the Trinity in Christ and his paradoxical work of dying to live – such is the path to reconciliation.\textsuperscript{23}

Specifically, reconciliation requires attending to human relationships in all their complexity, especially where the aim is to restore social peace and right relations in the context of community conflict.\textsuperscript{24} Various dimensions of “social reconciliation” include “forgiveness, truth-telling, limiting violence, the healing of memories, and the pursuit of justice”; real reconciliation which undermines racial injustice is demanding and includes “reparations.”\textsuperscript{25} True reconciliation therefore requires authentic self-awareness and recognition of shared humanity.\textsuperscript{26} Love as articulated by the Apostle Paul in the New Testament is the foundation of reconciliation, which begins with God’s love as expressed through the Trinity, Incarnation, Crucifixion and Resurrection, and where God’s forgiveness to draw us to Him provides a model to forgive and bond with others. Reconciliation in turn is the major theological theme of Paul’s writings in the New Testament.\textsuperscript{27}

For Paul, God is the “agent of reconciliation.” The vertical reconciliation God has brought in Christ “makes possible” the horizontal restoration of social relations, amelioration of interpersonal relations and the mitigation of conflict, and subsequent peace.\textsuperscript{28} So in Paul’s experience it is actually the offended party (God) who initiates reconciliation, extending grace to humanity to forgive them at the great cost of his son. This self-giving was in actuality an expression of love which overcame death, for Christ resurrected. In this sense it is more important to love and forgive than to assert one’s rights, setting aside insistence on one’s preferences to act for the good of others and to seek peace. Thus, the Christian approach to reconciliation is the unilateral pursuit of peace as an imitation of God’s reconciling action in Christ, manifested through tangible change as a

\begin{thebibliography}{99}
\bibitem{Ibid., 422, 428; Deagon, From Violence to Peace, 185–186.}
\bibitem{See Milbank, The Word Made Strange, 164.}
\bibitem{Deagon, From Violence to Peace, 193–194; Milbank, Being Reconciled, 57.}
\bibitem{Carney and Johnston, “Introduction,” 3.}
\bibitem{Ibid., 6. See de Gruchy, Reconciliation, who argues that reconciliation is primarily about restoring justice, founded upon our restoration to God in Christ and extending to the renewal of interpersonal relations and the transformation of society.}
\bibitem{See e.g. Smith, “Early Monastic Practices”; Fleming, “Three Lessons.”}
\bibitem{Carney and Johnston, “Introduction,” 7; See Stegman, “A Pauline Foundation”; Martin, Reconciliation.}
\bibitem{See Stegman, “A Pauline Foundation,” 17–19. See also Schwobel, “Reconciliation.”}
\end{thebibliography}
display of self-sacrifice and forgiveness, having recognized our own failings and solidarity with others.29

**A colonial perspective?**

However, adopting an explicitly Christian perspective on reconciliation and recognition raises the significant objection that this perspective merely reinscribes the colonial bias which was (and still can be today) a major source of injustice for Aboriginal and Torres Strait Islander people. One example is the history of Christian mission and Indigenous Australians. Over a period of several decades Christian missions supported government initiatives to strip Indigenous persons of their families, languages, culture and own spiritual beliefs, which occurred in the causes of “conversion” and “assimilation.” Many Christian institutions engaged in emotional, physical, spiritual and sexual abuse. Many Aboriginal people died. One cannot simply overlook the weight of these historical wrongs, and genuinely grappling with this history is an essential aspect of the reconciliation process.30 Indeed, many church organizations have acknowledged these and issued public apologies.31

At the same time, on occasions the interactions have been more ambivalent. As Rademaker has argued, the church and aboriginal history in Australia have a multifaceted and diverse relationship which largely depended on individual and denominational approaches. Some missions and missionaries were focused on abuse and control, cultural and biological assimilation, and were compliant in the stolen generation (though in individual circumstances missionaries loved and were loved by the children). However, others positively engaged with and advocated for Indigenous people, arguing that Aboriginal and Torres Strait Islander people were also people with souls who needed physical and spiritual support.32 Overdependence on settler-colonialism “binaries” limits understanding of the true intersubjective experiences of Christian individuals and groups with Indigenous individuals and groups, and ignores the intricacy of relationships and exchanges which sometimes resulted in productive and creative dialogue.33

Of course, recognizing the ambivalent relationship between Christianity and First Nations people does not itself mitigate the force of the colonial objection. There is some significant Indigenous resistance to and critique of the politics of recognition and reconciliation. For example, drawing on Marxist analysis, Glen Sean Coulthard argues that the principles of recognition and reconciliation are part of a liberal project which reinscribes a state-sanctioned regulative norm, ostensibly benign and tolerant rather than violent as in the past. Colonial relations of power are reproduced in this context through “the asymmetrical exchange of mediated forms of state recognition and accommodation”; “the injustice of colonial rule is posited on its own terms and in its own right.”34 The implication is the colonial oppression of the past is instantiated in new forms which are more subtle and insidious, establishing a false consciousness

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29See Stegman, “A Pauline Foundation,” 20–30.

30See e.g. Buti, “Removal of Aboriginal Children”; Harris, “Hiding the Bodies”.

31See e.g. https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/reparations-and-reconciliation.

32Rademaker, *Found in Translation*.

33Ibid., 11.

34Coulthard, *Red Skin, White Masks*, 17–24.
of liberation through purported “recognition” and “reconciliation” while simultaneously maintaining colonial domination. Similarly, Audra Simpson argues for “refusal” rather than recognition, which is a “political and ethical stance” which requires “having one’s political sovereignty acknowledged and upheld,” and “raises the question of legitimacy for those who are usually in the position of recognizing.”

Recognition is “trickery,” affirming the colonial context which enforced Indigenous dispossession and then papering over the “conditions of force and violence” which gave rise to the “ruse” of consent. Recognition requires “concession to the authority of foreign and dispossessing political will” while simultaneously serving to “diminish the authority and sovereignty … of robust Indigenous political orders.” Hence, any process of recognition in effect disavows Indigenous sovereignty and affirms colonial dominance.

Furthermore in the Australian context, as Lino notes, the Constitution was drafted as a colonizing instrument designed to advance settler society, with Indigenous displacement an inevitable if implicit outcome. Indigenous people were explicitly excluded from the creation of the Constitution, voting on the Constitution, and in the Constitution itself. They could not vote in elections or be counted in the census. “Contemporary projects of Indigenous recognition can never entirely transcend the legacies of settler colonialism, even as they nonetheless present the best option for addressing those legacies.” According to these views, relying on the Constitution to implement recognition would simply further entrench colonial injustice rather than transcend it.

And yet, as Lino implies, the objection also proves too much – if any colonial framework is automatically disqualified from contributing to reconciliation, then a great many (perhaps most) frameworks would be removed, undermining the process of reconciliation. Short of fracturing the skeletal principles of the common law, any realistic, pragmatic attempt at reconciliation must involve a (better) constitutional relationship between Indigenous Australians and the Australian settler state. Many Indigenous Australians have indicated this is what they want. So while it can be acknowledged that this is an imperfect colonial approach, it must be accepted that recourse to such approaches are necessary and the impact can be mitigated. It is therefore vital that Aboriginal and Torres Strait Islander perspectives are genuinely heard and cause substantive change, resulting in the pursuit of recognition and reconciliation which is possible and broadly supported by Aboriginal and Torres Strait Islander communities (while also undermining colonial domination of the process and acknowledging the authority and sovereignty

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35Simpson, Mohawk Interruptus, 6–7.
36Simpson, “The Ruse of Consent,” 20.
37Ibid., 29.
38Lino, “Indigenous Recognition,” 243–244.
39Ibid., 244–245. After the 1967 referendum, Indigenous Australians were included in the Constitution by an amendment bringing them within the scope of the race power, and enabling them to be counted. See the discussion in Attwood and Markus, The 1967 Referendum; Morris, “Constitutional Procedure,” 167–168. See also Brennan, No Small Change.
40Lino, “Indigenous Recognition,” 243–244. See also Davis and Williams, Referendum.
41Lino, “Indigenous Recognition,” 247–249. See Maddison, Clark, and de Costa, The Limits of Settler Colonial Reconciliation.
42See generally Lino, Constitutional Recognition, Ch 7. C.f. Mabo v Queensland (No 2) (1992) 175 CLR 1, 29 (Brennan J).
43Lino, “Indigenous Recognition,” 247–249. See also the essays in Davis and Langton, It’s Our Country; Morris, “Lessons from New Zealand”; Morris and Pearson, “Indigenous Constitutional Recognition.”
44For some Indigenous scholars and advocates, I acknowledge the Christian perspective in this article may not be acceptable if they view it as intrinsically colonial and therefore part of the problem. Even so, we can accept the flaws and limitations of the colonial apparatus while also recognizing that using it in some way is a pragmatic necessity if substantive legal and systemic change is to be realistically achieved.
of Indigenous polities). This article pursues the task by drawing on the principles of Makarrata to inform and augment the Christian theology of reconciliation, bearing in mind the critiques of Coulthard and Simpson by recognizing the authority of Makarrata as a concept that can and should inform any Christian notion of reconciliation in the Australian context.45 As Tinker has articulated, a reconciliation theology for Indigenous peoples must take into account social, cultural and historical realities, and engage in critique without simply replicating colonial ideologies.46

The concept of recognition is varied, capacious and inchoate, including “radical political transformation, Indigenous inclusion, protection and empowerment, settler nation-building, cautious symbolism, conservative resistance,” and various combinations.47 On the relatively conservative side is explicit symbolic amendment of the preamble in the Constitution to acknowledge Indigenous people, which few see as adequate in itself because it does not substantively alter the position of Indigenous people. On the more “radical” side include removing or amending the race power, creating a constitutionally protected First Nations body to advise the Australian Parliament, and establishing a treaty (such is advocated in the Uluru Statement, along with the creation of a Makarrata Commission).48 More systemically, a “politics of recognition” entails that Aboriginal and Torres Strait Islanders have their identities symbolically and substantively respected in prevailing constitutional and political norms, structures and practices.49 Failure to meaningfully recognize indigenous peoples in the Australian Constitution will produce further fragmentation, and may lead to the extremes of nationalism and assimilation. Rather, Pearson argues for an alternative to fragmentation and the assimilatory state. [That] is recognition and reconciliation: where peoples within nation-states come to terms with each other and commit to the nation, while respecting the existential anxieties of distinct peoples.50

In regard to compatibility, it is worth noting that Australia’s political constitutionalism also entails the possibility of a treaty or treaties to create new constitutional conventions and relationships between the Australian state and the community of Indigenous peoples, as has been successful in New Zealand.51 Gussen notes that “recognition is intended to advance efforts towards national reconciliation.”52 Recognition is about accepting as valid the claim of Aboriginal and Torres Strait Islander peoples to their heritage, traditional lands and waters, and their claim for self-determination.53 A key aspect of recognition in this context is the acknowledgement of “legal authority,” including bijuralist and multijuralist approaches which afford Indigenous peoples separate jurisdictions and self-governance of those jurisdictions.54

45See e.g. Riches, “Can Australia Create Space for Theological Makarrata”, and the other articles in that special issue.
46See Tinker, American Indian Liberation.
47Lino, “Indigenous Recognition,” 250. See also Lino, “What is Constitutional Recognition?” See generally Brennan, “Contours and Prospects.”
48Lino, “Indigenous Recognition,” 250–252. See McAnearney, “Indigenous Recognition,” 90–94 for a concise summary of options.
49Lino, “Indigenous Recognition,” 253–254. See Dylan Lino, Constitutional Recognition, Ch 3; Taylor, “The Politics of Recognition.”
50Pearson, “A Rightful Place,” 14. See also Pearson, “A Rightful Place.”
51See e.g. McHugh, “What a Difference”; Morris, “Lessons from New Zealand.”
52Gussen, “A Comparative Analysis,” 868.
53Ibid., 872.
54Ibid., 902.
The idea of federalism, including “self-rule and shared rule, and respect for diversity,” offers a conceptual framework for recognizing self-determining sovereign Indigenous political communities and institutionalizing forms of Indigenous Australian autonomy. Federalism challenges the claim that sovereignty is indivisible and unshareable, for at the heart of Australia’s constitutional system is a structure which facilitates the mutual coexistence of multiple political communities (Commonwealth, States and Territories). Indeed, such pluralist notions of authority have more in common with theological ideas than the traditional secular, liberal, monist sovereign state, providing the possibility for a theology of reconciliation which can also enable substantive and concrete outcomes in the Australian legal and political settlement.

The Yolngu expression of reconciliation, “Makarrata,” can be defined as “coming together after a struggle” – it is a matter of settling differences and moving forward together as one, which requires a genuine and forthright recording of history through “truth-telling” and “bearing witness.” It involves not just listening, but listening and hearing well and ethically to understand what recovery or reconciliation would require from the perspective of the party harmed. Incorporating the perspectives of Indigenous people in a theology of reconciliation therefore avoids the “danger” that Makarrata “could be misappropriated as a benign term in aid of the process of reconciliation rather than as a more fundamental challenge to the established settler order.” Makarrata can indeed be radical, originally stemming from the idea of using a spear to maim so a person can no longer run and hunt, settling them and calming them. In this sense reconciliation is more than simply symbolic recognition or even greater participation – it entails preventing the settler colonial state from perpetrating further violence and injustice against Aboriginal and Torres Strait Islander peoples.

Galarrwuy Yunupingu outlines the principles of “makarrata” in detail. First, one starts from the position of the aggrieved party, and then the two parties must come together for the aggrieved party to carefully and calmly state the facts about the dispute. Anyone who is disruptive or seeks vengeance is turned away. The leaders must seek a full understanding of the dispute – what undergirds it, who is responsible, and what each party wants. Then the settlement can be agreed upon. This settlement is a symbolic reckoning which indicates that the dispute is ended, finally and forever settled. The formerly disputing parties come together and work and live together to make peace and restore harmony.

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55 Lino, “Indigenous Recognition,” 261–262.
56 Ibid. See e.g. Lino, “Towards Indigenous-Settler Federalism”; Aroney, Constitution of a Federal Commonwealth. See also Hobbs, “Multinational Federalism in Australia.”
57 See eg Hirschl, Constitutional Theocracy, 185 on the liberal state’s resentment toward alternative sources of authority or competing systems of collective identity; Milbank, Word Made Strange, 276–284: The affirmation of different kinds of communities and associations within the “state” is what Milbank calls “complex space”, in contrast to the “simple space” of liberalism with a centralised state controlling individuals. See also Ivison, Liberal States; Aroney and Parkinson, “Associational Freedom.” One might quibble here with the linking of secularism and liberalism to monist conceptions of authority. After all, two secular liberal democracies that existed before the Australian Constitution (the United States and Canada) are federal states that each have at least some pluralist recognition of Indigenous peoples’ legal sovereignty through treaty guarantees. However, as explained in Part V, the very notions of federalism and plural authority stem from Christian foundations rather than secular ones, which implies there is a significant Christian influence underpinning the constitutionalism of the US and Canada. See e.g. Zimmermann, Christian Foundations Volume II; Sossin, “Supremacy of God”; Oakley, Watershed of Modern Politics.
58 Davis, “Makarrata,” 7–8: Available at http://www.upholdandrecognize.com/publications.
59 Davis and Langton, “Introduction,” 6.
60 Little, “The Politics of Makarrata,” 36.
61 Ibid., 42.
for a shared future. That is the outcome Aboriginal and Torres Strait Islanders seek.\(^{62}\) Put simply then, Makarrata is a treaty, but its real meaning entails a complex process of conflict resolution, peacemaking and justice – a coming together after a struggle, facing the facts of wrongs, and living again in peace.\(^{63}\)

Neville Naden and Jione Havea define apology (in the context of reconciliation) as admission of wrongdoing and working towards a better future. Hence words and symbols are not enough. There must be three elements: “acknowledgement, reparation, and reconstruction.”\(^{64}\) The prerequisite for such is a respect for diversity through consultation; “If ... the Church wants to do something for us, they should first respect our diversity and ask us how we are different along ourselves.”\(^{65}\) This diversity also extends to “Indigenous theology,” which gives indigenous people freedom to understand God in their own context. Naden and Havea say “We are a diverse people, and our understanding of God will also be diverse.”\(^{66}\) Furthermore, any theology of Indigenous reconciliation may start with Christian categories while simultaneously challenging and extending those categories to better fit an Indigenous context.\(^{67}\) In other words, a Christian theological approach to reconciliation must involve acknowledgement, reparation and restoration which also celebrates diverse responses and requirements to fulfill these imperatives, while simultaneously enabling diverse theological approaches to these same issues. As the remainder of this article will outline, acknowledgement through confession, and reparation and reconstruction through repentance and restitution are key to Makarrata and consistent with a Christian approach to reconciliation. The theology which undergirds Christian reconciliation itself also powerfully demonstrates and facilitates diversity and freedom in both religious belief and political practice.\(^{68}\)

As explored in, for example, the edited collection by Tolliday and Thompson, diverse theological approaches incorporate an anthropological, ethno-cultural idea of reconciliation which characterizes the recognition debate. They emphasize the importance of attending to difference and context, with a view to countenancing and reconciling difference to promote cultural harmony and political unity.\(^{69}\) Therefore a Christian theology for reconciliation must not exclude Indigenous voices. Indeed, non-Indigenous theologies must be prepared to listen and learn regarding what works and what does not. For example, as Elvey notes, though pursuing right relationship with creation is a Christian implication of reconciliation, reference to Indigenous theology with its rich and unique emphasis on connection to land ought not to be overlooked.\(^{70}\)

Similarly, the pain and loss experienced by Indigenous peoples as a result of colonization is not simply grounded in an event, but is structural, a “continuing and compounding wounding, an enduring and constantly recurring wounding over generations.”\(^{71}\)

\(^{62}\) Yunupingu, “Foreword,” 2–3.
\(^{63}\) Little, “The Politics of Makarrata,” 45–46.
\(^{64}\) Naden and Havea, “Colonization Has Many Names,” 6–7.
\(^{65}\) Ibid., 3.
\(^{66}\) Ibid., 7.
\(^{67}\) Kidwell et al., A Native American Theology, 2.
\(^{68}\) See e.g. Deagon, “A Christian Framework for Religious Diversity in Political Discourse.”
\(^{69}\) Tolliday and Thomson, Speaking Differently. For further resources which specifically analyse reconciliation with Indigenous peoples from a theological perspective, see e.g. various essays in Brett and Havea, Colonial Contexts and Postcolonial Theologies and Havea, Unfinished Business of Theology.
\(^{70}\) Elvey, “Acknowledging Traditional Owners: A Theological Inquiry.”
\(^{71}\) Schreiter, “Witness and Practice of Living Memory,” 205.
Wolfe has articulated, if we accept that colonization “is a structure not an event” which entails the elimination of native societies, to the extent that the Christian theology in this article is part of that structure it must actively participate in the rebuilding and strengthening of Indigenous societies through dialogue which affirms Indigenous sovereignty and self-determination.72 Such dialogue is not merely exchanging information, but a building of mutual trust and solidarity between individuals and communities in accordance with Makarrata, which is also an essential aspect of Christian reconciliation (as will be seen below).73

O’Sullivan argues that reconciliation as a theological precept also creates a moral imperative to engage with secular political discourse to promote Indigenous rights in terms of reconciliation as mission, especially bearing in mind the church’s role in the disruption of Indigenous societies.74 Reconciliation as “public theology” enables the perpetrators of social injustice to repent and seek forgiveness, helping to create political environments willing to admit indigenous perspectives on policy issues.75 More recently, O’Sullivan has focused on the concept of Makarrata, arguing that Makarrata itself entails the theological presumptions of sorrow, forgiveness and resolve to establish just relationships. However, this also requires truth-telling so Australia as a colonial society can fully and deeply grapple with past transgressions. Only then can the just future be properly pursued by indigenous and non-indigenous Australians.76

A theological approach to reconciliation is therefore not unprecedented. Chavura, Gascoigne and Tregenza argue that reconciliation is an example of what they describe as a “migration of the holy,” where Australia’s overt religiosity is domesticated and channeled into ostensibly secular or political projects, while still retaining “more than a hint of their Christian origins.”77 The reconciliation movement in Australia owed its early support to various Christian churches and uses Christian concepts such as “an original act of transgression (colonization), penitence (national apology in 2008), and the (eschatological) hope of reconciliation.”78 It has even produced its own civic rituals such as National Sorry Day, NAIDOC week, and the Welcome to Country which not only occurs at almost all state-sponsored events nationwide, but at many private events as well.79 For these reasons the reconciliation movement has been described as a “secularised theological politics.”80

Even prominent Indigenous advocate and Australian law professor Megan Davis uses theological language to describe the merging ideologies and perspectives intrinsic to our nation: Australia

72Wolfe, Settler Colonialism and the Transformation of Anthropology, 2; Wolfe, “Settler Colonialism and the Elimination of the Native,” 388.
73See Andraos, In Between Reconciliation and Decolonisation.
74O’Sullivan, “Reconciliation.”
75O’Sullivan, “Reconciliation as Public Theology.”
76O’Sullivan, Sharing the Sovereign, 75–105.
77See Chavura, Gascoigne and Tregenza, A Secular State?, 243–244.
78Chavura, A Secular State?, 243–244. For a penetrating discussion on reconciliation as an expression of biblical Christianity in Australia, see Lake, The Bible in Australia, 340–345.
79Chavura. A Secular State?, 244.
80Phillips, “Aboriginal Reconciliation as Religious Politics,” 111.
is a trinity consisting of Aboriginal and Torres Strait Islander culture and heritage, British institutions and a multicultural accomplishment. These are not merely features of our community, but elements that must be recognized as specific components of the general interest of the nation.\(^{81}\)

Makarrata involves “bearing witness.”\(^{82}\) Hence, indigenous and non-indigenous reconciliation actions often use theological concepts and are infused with theological meaning.\(^{83}\) The approach in this article is therefore intended to inform, supplement and augment the meanings already present, rather than to exclude or replace (colonise?) them.

### A theology of reconciliation

#### Textual analysis

Having established the conceptual foundations for a theology of reconciliation, this part constructs the framework in detail through examining biblical texts, outlining the constituent elements of a theology of reconciliation, and explaining how these elements are informed or augmented by the principles of Makarrata. Three of the most significant passages are set out below:

For in him all the fullness of God was pleased to dwell, and through him to reconcile to himself all things, whether on earth or in heaven, making peace by the blood of his cross.\(^{84}\)

All this is from God, who through Christ reconciled us to himself and gave us the ministry of reconciliation; that is, in Christ God was reconciling the world to himself, not counting their trespasses against them, and entrusting to us the message of reconciliation.\(^{85}\)

But now in Christ Jesus you who once were far off have been brought near by the blood of Christ. For he himself is our peace, who has made us both one and has broken down in his flesh the dividing wall of hostility by abolishing the law of commandments expressed in ordinances, that he might create in himself one new man in place of the two, so making peace, and might reconcile us both to God in one body through the cross, thereby killing the hostility. And he came and preached peace to you who were far off and peace to those who were near. For through him we both have access in one Spirit to the Father.\(^{86}\)

The term “reconciliation,” including various forms such as “reconcile” and “reconciling,” are derived from the Greek term katallage – to change/exchange, adjust a difference, restore to favor.\(^{87}\) The Colossians and 2 Corinthians passages use this term purely in the context of spiritual reconciliation, the restoration of right relationship between

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\(^{81}\)Davis, “Makarrata,” 5 (my emphasis): Available at [http://www.upholdandrecognize.com/publications](http://www.upholdandrecognize.com/publications). In addition, Zimmermann notes that the famous Mabo decision, a step towards reconciliation, was arguably influenced by Catholic natural law teachings, and then Prime Minister Paul Keating’s speech which followed that decision was infused with Christian themes. This further indicates the significant Christian influence on the reconciliation process. See Zimmermann, *Christian Foundations Volume III*, 42.

\(^{82}\)Davis, “Makarrata,” 7–8 (my emphasis). See e.g. Romans 2:15, where conscience can “bear witness” to inform us what is good and evil without explicit moral precepts.

\(^{83}\)See e.g. Burn, *Land and Reconciliation in Australia*.

\(^{84}\)Colossians 1:19–20. References are to the English Standard Version unless otherwise indicated.

\(^{85}\)2 Corinthians 5:18–19.

\(^{86}\)Ephesians 2:13–18.

\(^{87}\)Thayer and Smith, *Katallage* (8/10/2020) The New Testament Greek Lexicon https://www.studylight.org/desk/interlinear.cgi?t=nas&q1=2+Corinthians±%3A18-19&x=6&y=4.
creation (including humanity) and God through Christ. Reconciliation involves God “not counting trespasses [sins/wrongs]” against people. Reconciliation comes from God “making peace” through Christ and his sacrifice on the cross. Paul and his fellows are then “entrusted” with the message of this spiritual reconciliation to bring to others, for Christ’s crucifixion “restores the Good” and “restores peace,” enabling the “possibility of mutual reconciliation.”\(^{88}\) This is because in Christ is displayed the one who “endures and compensates for evil … suffers violence without violent opposition, and yet at the same time positively opposes violence with a counter-violence to violence as such, which positively reasserts peace.”\(^{89}\)

However, the Ephesians passage connects our spiritual (vertical) reconciliation to God with the horizontal reconciliation between Jews and Gentiles. The Ephesians passage is therefore most important for our purposes because it explicitly deals with how reconciliation addresses entrenched racial tensions; Jews and Gentiles had, at times, an extremely acrimonious relationship.\(^{90}\) From this we can begin building the components of a theology of reconciliation relevant to the relationship between Indigenous Australians and the settler state. The passage states that Christ’s sacrifice (his “blood”) “brings near” those who were “far off” (the Gentiles) alongside those who are near (the Jews), making peace between them by unifying them and removing the former “hostility,” making the “two” ethnic groups “one.”\(^{91}\) Thus Milbank notes:

> The New Testament is here very direct: Christ’s blood makes peace, Christ’s blood makes possible harmony between people; in Christ, there is no longer the inclusion/exclusion logic of race … There is in Christ no more black and white … But if only Christ reconciles us to each other – nation to nation, race to race … then this can only mean that the specific shape of Christ’s body in his reconciled life and its continued renewal in the Church (where it is authentic, which must also be ceaselessly discerned) provides for us the true aesthetic example for our reshaping of our social existence.\(^{92}\)

Since in Christ all Jews and Gentiles have been reconciled to God, all Jews and Gentiles have been reconciled to each other. The point of the Ephesian metaphor is not that differences are eliminated, excluded or devalued. It is not that Jews and Gentiles have their distinctive identity erased.\(^{93}\) Rather, for those in Christ, the differences that exist no longer alienate them from one another. Differences which tend to divide are seen as positive and varied mechanisms of creating social peace.\(^{94}\) In addition, this peace uniquely comes through Christ – “in Christ” you have been “brought near by the blood of Christ,” and “he himself is our peace.”\(^{95}\) It follows that by employing this Christological framework, we can shape social existence to promote peace and reconciliation between Indigenous Australians and the settler state. Neither indigenous nor non-indigenous Australians will have their identity erased, but rather both will be celebrated in their differences to produce a harmonious community.

Specifically,

\(^{88}\)Milbank, *Being Reconciled*, 79.

\(^{89}\)Ibid., 79. See also Ibid., 26–43.

\(^{90}\)Deagon, *From Violence to Peace*, 190–191.

\(^{91}\)Ibid., 143–144.

\(^{92}\)Milbank, *Being Reconciled*, 102–103.

\(^{93}\)See Stegman, “A Pauline Foundation,” 30–33.

\(^{94}\)Furnish, “Ephesians,” 319–320.

\(^{95}\)Ephesians 2:13–14.
the gift of intrahuman forgiveness offered by the whole Trinity to Christ’s humanity is passed on by Christ to us… As participators… in the divine humanity, we now also begin to be capable of a forgiveness on sufficient authority and without taint of rancour. However, it remains our task to forgive and to go on receiving the forgiveness of other human beings, since what God offers us is not his negative forgiveness, but the positive possibility of intrahuman reconciliation.  

In other words, Christ as the embodiment of the gift of forgiveness creates the space for a community practice of reconciliation through projecting the image of God from heaven to earth – the practice of the law of love which is peace rather than conflict. The event of the Incarnation, crucifixion and resurrection exceptionally allows this because Jesus as the God-man, the omniscient and innocent divine logos, represents the singular suffering of all humanity, a maximally sovereign suffering which is capable of instituting forgiveness on behalf of all. So through representing universal suffering, Christ also provided the possibility for universal forgiveness by participation in the giving of forgiveness initiated by the divine love. In other words, we receive the divine authority to give and accept forgiveness as part of the reconciliation of human relationships, including between indigenous and non-indigenous Australians.

### Reconciliation: definition and elements

Thus, we can concisely define *reconciliation* as the practice of coming together after a conflict, removing a violent difference and restoring to favor and right relationship through the extension of forgiveness. There are a number of elements to this process which are augmented through Makarrata. First, there must be *repentance*. In the New Testament this is expressed as *metanoia*, a powerful Greek word which is derived from a combination of *meta* (after, behind) and *noieo/nous/ginosko*, which refers to the most deep and profound recesses of mind, knowledge and intellectual being. It refers to a holistic mind change, a wholesale turning around which changes the entire process and outcomes of one’s thoughts and actions. It therefore is both a necessary and sufficient condition for the following elements of reconciliation.

Second, there must be *confession*, which means an honest and comprehensive statement of wrongs committed, which in turn relies on an admission of wrong as required by repentance. It entails individual, corporate and vicarious responsibility. There “can be no reconciliation without a revelation of the truth.” The call for a Makarrata Commission or some other mechanism which enables “truth-telling” would constitute a broader confession process, enabling the narratives of wrong and injustice to publicly articulated, acknowledged and internalized. Tinker argues that true reconciliation “must be rooted in some sort of systemic confession and repentance” which “must rise

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96 Milbank, *Being Reconciled*, 61; Deagon, *From Violence to Peace*, 184–185.
97 Milbank, *Being Reconciled*, 61–62.
98 Deagon, *From Violence to Peace*, 184–185.
99 In this articulation I will focus on Scripture, but all these different elements of theological reconciliation are discussed in Carney and Johnston, *Reconciliation*; De Gruchy, *Reconciliation*; Martin, *Reconciliation*; Gunton, *Reconciliation*, and many other sources.
100 See Thayer and Smith, “Metanoia”; Walden, *The Great Meaning of Metanoia*.
101 1 John 8:9.
102 Gunton, “Introduction,” 1.
103 Little, “The Politics of Makarrata,” 39.
above the radical individualism of the western intellectual tradition.” In accordance with the principles of Makarrata, “a more helpful, proactive response” than simple “defensiveness and denial” is “necessary for owning the corporate past and imagining a new future.” Tinker suggests “assured sustainability” or “sustainable stasis” (as opposed to the liberal sustainable development) which entails recognition of the sovereignty of indigenous communities existing autonomously within states.

However, even if truth-telling is necessary for reconciliation, yet that very revealing can “stand in the way of reconciliation” as people grapple with the extent of the wrongs and injustices committed. This leads to the third element, which is lament. Lament is an external and visceral demonstration of empathy for the gravity of the wrong, which demonstrates the authenticity of the repentance and confession. This is starkly displayed in Makarrata through ethical listening and gaining understanding of the wrongs committed, even to the extent of sharing the pain (symbolized through maiming by the spear). For example, the “Common Grace” organization, which is a Christian-led reconciliation movement in Australia, has proposed January 26th as a “Day of Lamentation” rather than a day celebrating the arrival of the settler state.

Fourth, there must be apology. This entails saying sorry for the wrong, and as part of repentance changing one’s mind and behavior to avoid the wrong in the future. Forgiveness occurs through the “settlement” aspect of Makarrata, which puts aside the former disputes and conflicts to come together as one to reconstruct a better future. In Australia, Prime Minister Paul Keating’s 1992 Redfern speech which outlines many of the wrongs, the institution of “National Sorry Day” in 1998, and 2008 Prime Minister Kevin Rudd’s Apology on behalf of Australian Governments, are partial steps in this process. However, as Makarrata and New Testament repentance implies, symbolic actions like these must be accompanied by radical change and difference in conduct between the previously aggrieved and offending parties – through, for example, more explicit and substantive participation. As has already been discussed in detail, a prerequisite for any radical change is forgiveness, which means letting go of resentment, bitterness, or what is owed due to the wrong committed, and pursuing a harmonious relationship. Though forgiveness is a Christian concept, it is also a universal virtue which is a necessary condition for the genuine reconciliation and reconstruction of relationship desired by both Indigenous communities and non-Indigenous communities.

Yet this reconstruction as part of Makarrata involves restitution. Restitution is the performance of a concrete action in order to achieve and maintain a harmonious relationship between formerly disputing parties, which in this sense represents a challenge to the established order of the settler state and the former and current injustices perpetrated.
against Aboriginal and Torres Strait Islander peoples. An account of Jesus’ interaction with a tax collector provides a pertinent example:

[Jesus] entered Jericho and was passing through. And behold, there was a man named Zacchaeus. He was a chief tax collector and was rich. And he was seeking to see who Jesus was, but on account of the crowd he could not, because he was small in stature. So he ran on ahead and climbed up into a sycamore tree to see him, for he was about to pass that way. And when Jesus came to the place, he looked up and said to him, ‘Zacchaeus, hurry and come down, for I must stay at your house today.’ So he hurried and came down and received him joyfully. And when [the crowd] saw it, they all grumbled, ‘He has gone in to be the guest of a man who is a sinner.’ And Zacchaeus stood and said to the Lord, ‘Behold, Lord, the half of my goods I give to the poor. And if I have defrauded anyone of anything, I restore it fourfold.’ And Jesus said to him, ‘Today salvation has come to this house, since he also is a son of Abraham. For the Son of Man came to seek and to save the lost.’

In this story Zacchaeus is a Jewish tax collector for the Roman Empire, and tax collectors were regarded as traitors and thieves (“sinners”) by fellow Jews because they saw them as selling out to the occupying Romans for money (not to mention tax collectors were notorious for embezzling some of the money they collected, which is how they became “rich”). Upon believing in Jesus as “Lord” and being reconciled to him, Zacchaeus pledges to give away half of his wealth to the poor, and to anyone he committed fraud against he pledges to provide “four times” the money stolen to them. Jesus sees this radical change and concrete action as evidence of true reconciliation: “today salvation has come to this house.” It demonstrates the genuine repentance of Zacchaeus, for his entire mind and being changes from greed and embezzlement to contrite generosity which manifests through his commitment to restitution.

Thus, restitution as a component of reconciliation consistent with Makarrata “is an act of reparation that seeks to repair damage done through an unjust action perpetrated on a victim”; this underscores the problem of how to make restitution generations after the initial violence, which is particularly relevant for reconciliation in the context of First Nations people. For example, in some circumstances returning land or compensation for dispossessed land ought to be considered, in conjunction with investment in programs of language, culture and ceremony revitalization. Though it is beyond the scope of this article to explore in detail, it is worth considering a Truth and Reconciliation Commission. Such Commissions in other countries like South Africa facilitated reconciliation by providing a forum for healing by enabling individual, people and nation to address the past and move forward. The need for reparations and understanding of what actions the offending party should take to pursue a new, better relationship is an important component of Makarrata. Apart from substantive constitutional and political change in Australia which is considered later in this article, a number of Christian groups already make significant financial contributions to Indigenous projects. The Standing

113Luke 19:1–10.
114Blomberg, Jesus and the Gospels, 164, 275.
115The “four times” is reminiscent of the Old Testament requirement to return four sheep for one which is stolen (Exodus 22:1).
116Carney and Johnston, “Introduction,” 10; Fleming, “Three Lessons.” See also Schaap, Political Reconciliation.
117Gibson, “The Contributions of Truth to Reconciliation.”
118Beach, “Christians Call to Share Land Profits with Aboriginal People,” Eternity News, February 21, 2018: https://www.eternitynews.com.au/australia/christians-call-to-share-land-profits-with-aboriginal-people/. Many churches and church-related groups have been at the forefront of initiatives for reconciliation since the colony began, including
Committee on Indigenous Ministry Funding for the Sydney Anglican diocese has also argued for the increase of donations from land profits:

The injustice is a past injustice. When white people first arrived in this land we failed even to recognize that prior to us other peoples inhabited the land: we said it was a land belonging to no one (terra nullius). Accordingly, we simply took the land as if it were ours to take. The church benefited directly from this injustice in receiving from the colonial government what was essentially stolen land. Money derived from those lands granted to the church forms the basis of the investments from which the diocesan budget is derived. The logic is simple. We make symbolic restitution to the Indigenous peoples of Australia by giving back to them a percentage of the income derived from those investments. We give back from the proceeds of that which was given to us as a church out of that which was stolen from them. By doing this we acknowledge the past injustice and seek in a small way to redress its ongoing consequences.\[^{119}\]

Finally, the cumulative effect of the preceding is to build mutual trust and pursue a harmonious relationship as the culmination of reconciliation. This entails setting aside selfishness and distance to reach a position of mutual interdependence and responsibility, coming together to build virtue in celebration of our differences to improve our social existence.\[^{120}\] As Jesus said, people will know those who follow his principles by their love for one another.\[^{121}\] This is the aim of Makarrata, to move forward together as one, and to seek peace and harmony as we build a shared future. Again, the Common Grace organization has many resources for pursuing Aboriginal and Torres Strait Islander friendship, justice and reconciliation from a Christian perspective.\[^{122}\] However, this article focuses on constitutional recognition and change specifically as a mechanism of implementing reconciliation in Australia. So in the following parts, the article will explore and evaluate various options for constitutional recognition of Indigenous Australians from the perspective of the theology of reconciliation articulated above.

Reconciliation and “Christian” recognition: symbolic and substantive approaches

One of the less radical options for recognition of Indigenous Australians is an acknowledgement in the preamble of the national or Commonwealth Constitution explained in the Introduction. This would be purely symbolic with no binding legal effect. Morris and Pearson explain that a symbolic approach would be a mere emblematic acknowledgement of Indigenous people (and perhaps outdated references to race would be removed), but it would not implement any practically operational legal, political or institutional reform. It is mere word change rather than systemic change.\[^{123}\] As mentioned by French above, symbolic recognition nevertheless can have positive social impact by

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\[^{119}\]Mark Payne, *Standing Committee Report on Indigenous Peoples Ministry Funding 2003*: http://enit-syd.sds.asn.au/Site/103646.asp?a=a&ph=sy. Admittedly, the relative inadequacy of this approach emphasises why issues of true financial restitution are so difficult, because their extent could be enormous.

\[^{120}\]Galatians 5:13–15, 22–23; Colossians 5:12–15.

\[^{121}\]John 13:34–35.

\[^{122}\]See [https://www.commongrace.org.au/aboriginal_and_torres_strait_islander_justice](https://www.commongrace.org.au/aboriginal_and_torres_strait_islander_justice).

\[^{123}\]Morris and Pearson, “Indigenous Constitutional Recognition,” 350–351. Cf Stubbs, “Substantive Recognition.”
increasing the awareness of people and institutions. In this sense there are some parallels with the recognition of God in the preamble of the Constitution.\textsuperscript{124} Just as the recognition of God expressed the hopes and aspirations of the fledgling nation, and acknowledges a shared heritage and tradition which creates a bond of solidarity between citizens, so recognition of First Nations people can express the hopes and aspirations for a newly reconciled future, acknowledging the deep history of Australia’s First Peoples and providing a shared identity which can unify the nation.

Recognizing First Nations people in the Australian Constitution may benefit both indigenous and non-indigenous citizens by providing a uniting political symbol that points to a transcendent and deeper conception of reconciliation. This in turn may enhance indigenous participation by producing political solidarity between citizens where it is recognized that each citizen, indigenous or non-indigenous, is an essential and valuable part of the community. Recognition of First Peoples may also motivate virtuous thought and conduct towards them as an intrinsic member of the community. It would be a uniting political act which facilitates an enduring, beneficial relationship between indigenous Australians and the settler state.\textsuperscript{125} Importantly, this acknowledgement would be symbolic and would not have any substantive legal effect.\textsuperscript{126} Thus it does not involve the preferencing of particular groups.

As part of the democratic process, First Peoples are equally entitled to have their perspectives heard and respected in political contexts. Thus, recognizing them in the Australian Constitution is part of a “larger exercise in civic recognition” that Aboriginal and Torres Strait Islanders exist as part of (and have existed prior to) the liberal democratic state.\textsuperscript{127} The “purpose and effect” of such recognition is to “acknowledge” First Nations “and the institutions they represent rather than to exclude or coerce” non-indigenous people.\textsuperscript{128} The recognition “respects” First Nations culture and “accommodates the public service” to their needs.\textsuperscript{129} On this view, if the state fails to cooperate with First Peoples, it would demonstrate an anti-democratic and “callous indifference” to their communities.\textsuperscript{130} Hence, amending the preamble would effect a formal recognition of our First Nations as a uniting political act which suggests an enduring mutually beneficial solidarity between indigenous and non-indigenous peoples, and more generally between the settler state and First Peoples, as part of a desirable democratic process.\textsuperscript{131}

However, the fact that this version of recognition is merely symbolic, without any legal consequence, means that the recognition is only partial at best. From the perspective of a theology of reconciliation, the reconciliation itself is incomplete, and therefore it is not efficacious. In the context of spiritual reconciliation, it is equivalent to the mere declaration that one is reconciled to God through Christ (“justification”) without the

\begin{thebibliography}{999}
\bibitem{124}See Deagon, “Name of God.”
\bibitem{125}Ibid., 474.
\bibitem{126}There are some lines of argument that claim ambiguous provisions can be interpreted in light of preambular statements. However, the amendment could be guaranteed to prevent this by also inserting a clause prohibiting the use of the new preamble in constitutional interpretation. See McKenna, Simpson, and Williams, “First Words”; Twomey, “The Preamble and Indigenous Recognition”; Twomey, “Constitutional Preambles.”
\bibitem{127}See Buckles, “Public Policy and Public Service,” 834.
\bibitem{128}Ibid., 834.
\bibitem{129}Ibid., 847.
\bibitem{130}Ibid., 846.
\bibitem{131}See Deagon, “Name of God,” 483.
\end{thebibliography}
transformation which externally demonstrates that reconciliation to God ("sanctification"). It does not satisfy the requirement for restitution as part of the reconciliation process according to Makarrata, because there is no concrete action or practical change to demonstrate a recalibrated, harmonious relationship. Finally, a merely symbolic acknowledgement does not satisfy most advocates for recognition. For example, as we saw in the Introduction, Davis and Langton argue that their volume demonstrates that mere symbolism through an acknowledgement is insufficient to promote reconciliation and address injustice by enabling structural change. In addition to some kind of symbolic recognition, a more robust substantive approach is also needed.

A number of Australian panels and reports have made recommendations for more substantive approaches to recognition of Indigenous Australians in the pursuit of reconciliation. The first substantive proposal is amendment of the race power in s 51 (xxvi) of the Australian Constitution, which states the Commonwealth has power to make laws with respect to “the people of any race for whom it is deemed necessary to make special laws.” The most controversial aspect of the race power in this context is that it potentially supports the enactment of laws detrimental to the welfare of Aboriginal and Torres Strait Islanders. As such the preferred proposal, as Twomey advocates, appears to be insertion of an Indigenous-specific grant of Commonwealth legislative power for explicitly beneficial purposes. This is not racially based, but instead reflects the distinct historical connection and political detriment of Indigenous Australians. It would be a new positive power to recognize Aboriginal and Torres Strait Islander peoples in Australia, and make laws with respect to their heritage, cultures and languages, and connections to traditional land and waters.

A theology of reconciliation would entirely support this substantive change. As seen in the Ephesians passage explained above, the tenor of reconciliation in the New Testament is that it is not racially based and it breaks down the barriers of hostility between races. “There is neither Jew nor Greek [Gentile/non-Jew] … for you are all one in Christ Jesus.” Hence a racially targeted or discriminatory power to make laws for the detriment of Aboriginal and Torres Strait Islander peoples is not sustainable. However, as discussed above, this does not mean differences between groups are excluded or erased; rather, differences are positively incorporated and celebrated as part of a social harmony. A new positive power to specifically enable the passing of laws to protect and advance First Nations heritage and culture would be a type of restitution consistent

132Grudem, *Systematic Theology*, 723–724, 747–749.
133Davis and Langton, “Introduction,” 7.
134Morris and Pearson, “Indigenous Constitutional Recognition,” 350–351. See also Stubbs, “Substantive Recognition.” Twomey also raises potential legal and political barriers to amendment of the preamble: see Twomey, “A Revised Proposal,” 388–394.
135See generally “Report of the Expert Panel”, *Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution* (Commonwealth of Australia, 2012); “Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples”, *Final Report* (Commonwealth of Australia, 2015); *Final Report of the Referendum Council* (Commonwealth of Australia, 2017).
136McAnearney, “Indigenous Recognition,” 88–89; Twomey, “A Revised Proposal,” 385–387. See also Pritchard, “The ‘Race’ Power.”
137Twomey, “Race Power,” 442. This approach would also minimise the possibility of paternalist abuses of a race power amended to specify that laws are only to be beneficial.
138McAnearney, “Indigenous Recognition,” 90–91.
139Twomey, “A Revised Proposal,” 397–398. See also Dixon and Williams, “Drafting a Replacement.”
140Galatians 3:28.
with Makarrata, a concrete and substantive action which engenders mutual trust and contributes to a harmonious relationship between First Peoples and the settler state. However, mere recognition does not fully satisfy the requirement for repentance and restitution either, as the story of Zacchaeus intimates. Repentance entails substantive material and structural action which affects policies and practices at all levels of government and in the community, including such possibilities as reparations, payment of stolen wages, better protection of Indigenous land and sea rights, better recognition of customary law and practices, and better policies in relation to education, health and the justice system.\(^{141}\) For example, Massam observes that the Australian neglect of Indigenous knowledges results from a failure to listen, a “speaking past each other”; as part of Makarrata she suggests engaging in a more sacramental and liturgical pattern of thought process to better hear the spiritual foundation for Indigenous authority and sovereignty.\(^{142}\) This, of course, could then inform any Christian theology of reconciliation.

A way to implement these possibilities, or another option, is adopting a treaty to entrench, by statute and/or in the Constitution, an agreement and formal relationship between First Nations people and the Australian settler state. Conceptually, treaty and self-determination are consistent with the Australian constitutional values of federalism and diversity.\(^{143}\) As Zimmermann observes, “a true federation must derive from a pluralist concern for the fair distribution and share of government powers, as well as a strong emphasis on individual liberty and political participation,” and this also holds for indigenous self-determination within the settler state.\(^{144}\) As Bruyneel indicates, federalism can provide a “third space” of sovereignty for Indigenous peoples which transcends the untenable options of “independence” (the complete deconstruction or rejection of the colonial settler state) or “assimilation” (the complete acceptance of the sovereignty of the colonial settler state and consequent diminution of indigenous sovereignty).\(^{145}\) This third space “resides neither simply inside nor outside the … political system but rather exists on these very boundaries, exposing both the practices and contingences of … colonial rule.”\(^{146}\) It is a place where Indigenous communities can exercise sovereignty and authority while also interacting with the sovereignty and authority of the settler state.

In regard to a theology of reconciliation, broadly speaking, federalism, pluralism and diversity have clear theological foundations.\(^{147}\) Federalism “has its roots in the Bible” and the term was first used for “theological purposes” to describe the partnership between God and humanity.\(^{148}\) This in turn “gave form to the idea of a covenantal (or federal) relationship between individuals and families leading to the formation of a body politic and between bodies politic leading to the creation of compound polities. The

\(^{141}\) See Lino, “Indigenous Recognition,” 253–254. See also Dylan Lino, Constitutional Recognition, Ch 3; Taylor, “The Politics of Recognition.”

\(^{142}\) See Massam, “Sacramental Imagination and Political Rites.”

\(^{143}\) Lino, “Australian Constitutional Values,” 261. For an articulation and proposed response to some of the practical problems posed by incorporating Aboriginal and Torres Strait Islander Peoples into our federal system, see Crowe, “The Race Power”; Breen, “Federalism.”

\(^{144}\) Zimmermann, Christian Foundations Volume II, 125.

\(^{145}\) Bruyneel, The Third Space of Sovereignty, 25.

\(^{146}\) Ibid., xvii.

\(^{147}\) Ibid., 125–129. See e.g. Aroney, “Subsidiarity”; Hall, “Vindiciae, Contra Tyrannos,” 34–63, especially 53. Aroney demonstrates how the framers of the Australian constitution drew heavily on the American system (which was in turn grounded in Christian principles): see Aroney, Federal Commonwealth, 65–130.

\(^{148}\) Elazar, Exploring Federalism, 5.
political applications of the theological usage gave rise to the transformation of the term federal into an explicitly political concept.” It is certainly not problematic as a matter of theological principle to pursue a relationship of divided and distributed sovereignty on the basis of agreement.

More specifically, the difficulty of the treaty process implies deeper relationships of goodwill are vital to ensure treaties achieve the desired practical outcomes and improvements. For example, Hobbs and Young argue that if an Australian treaty is to be successful, there must be a deeper “relational ethic” between indigenous and non-indigenous peoples to undergird the process, including equity, peace, friendship and mutual respect. Laws and institutions will not be sufficient. Consistent with Makarrata, the idea of a relational ethic is alluded to above when discussing the need to take into account Indigenous perspectives, including aspects such as a respect for diversity and freedom demonstrated through genuine dialogue, an acknowledgement of continuing pain and loss associated with land and culture, and a building of trust and goodwill. Following the elements of reconciliation informed by Makarrata, such as repentance, confession, lament, apology and restitution (entailing substantive change), would produce goodwill between both parties, motivated by a mutual pursuit of a harmonious relationship and social peace. That suggests the implementation of other options for substantive recognition (as a function of restitution) in conjunction with treaty would increase the probability of success. Thus, a theology of reconciliation as a deeper relational ethic is arguably a necessary precondition for the successful substantive implementation of a treaty which recognizes First Nations sovereignty and self-determination, and such a treaty would be compatible with Australia’s legal and political system.

A final option for substantive reform considered in this article is a Voice to Parliament. In 2017 the Referendum Council for the Constitutional Recognition of Indigenous Australians released its Final Report. The Referendum Council was a council comprised of indigenous and non-indigenous stakeholders and politicians appointed to advise the Prime Minister and Opposition Leader on next steps towards a successful referendum to recognize Aboriginal and Torres Strait Islander Peoples in the Constitution. Their Report contained the “Uluru Statement” and Recommendations, which underscored the importance of recognizing Indigenous heritage and the desire for self-determination, and produced bipartisan agreement on the need for constitutional recognition. The Uluru Statement articulated the history and sovereignty of First Nations peoples and called for “Makarrata: the coming together after a struggle.” One of the recommendations was for the establishment of an Indigenous Advisory Body to provide a Voice to Parliament, including monitoring usage of the race and territories powers in the Constitution.

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149Ibid., 5.
150Hobbs and Young, “Modern Treaty Making.” See generally Williams and Hobbs, Treaty.
151See Deagon, From Violence to Peace, Ch 7; Deagon, “Name of God.”
152See Lino, Constitutional Recognition, Ch 2.
153First Nations Constitutional Convention, “Uluru Statement from the Heart” [2017] Indigenous Law Resources 1; Referendum Council, Final Report of the Referendum Council (Report, 30 June 2017) https://www.referendumcouncil.org.au/sites/default/files/report_attachments/Referendum_Council_Final_Report.pdf; Little, “The Politics of Makarrata,” 33–34. For a general discussion of the Uluru Statement, see Larkin and Galloway, “Uluru Statement.” For a more detailed discussion see Morris, “The Torment of our Powerlessness.”
Noel Pearson argues that this advisory body should be constructed alongside parliament to operate through a dialogue model, in conjunction with a statute of reconciliation which symbolizes the commitment to harmony between indigenous and non-indigenous peoples while avoiding the problems of symbolism in the constitution.\textsuperscript{154} Having an Indigenous representative body which must be consulted on laws which affect Indigenous peoples is a type of substantive recognition. The fact that the body would be established through a constitutional amendment and/or statute, in conjunction with the fact it would provide non-binding, non-justiciable advice to Parliament, implies it would not impinge upon constitutional or parliamentary supremacy and would not undermine the features of Australia’s constitutional system.\textsuperscript{155}

There are, however, advantages and disadvantages associated with constitutional change as distinct from a statute. The difficulty of constitutional amendment is a double-edged sword; once passed it will be enduring, but change is also unlikely because the threshold (passing both houses of Parliament and then a successful referendum whereby a majority of the national population, and the majority of the state population of a majority of states, vote in favor) is so high. Only 8 of 44 referendum proposals have been successful. Any minimalist or formal-symbolic change to the constitution may be more likely to be successful, but as noted above such change will not be sufficient to achieve genuine reconciliation, both from the perspective of Indigenous advocates and also from the perspective of Christian theology. Conversely, a statute is easier to enact, but also easier to amend or abolish.\textsuperscript{156} Though adopting any kind of substantive approach or combination of approaches would be consistent with a Christian theology informed by Makarrata, a genuine restitutionary measure which may be most effective at creating a framework for substantive reconciliation is to seek a minimalist referendum proposal which is likely to be successful, in conjunction with a statute which makes more systemic legal, social and cultural changes.

Lino argues that since equality entails treating like cases alike as a matter of equal concern and respect, where there are relevant factual differences between cases these differences should be addressed in an appropriate and proportionate manner. It is not racist or contrary to equality to provide Indigenous Australians with special treatment through statute and/or in the Australian Constitution for at least three reasons. First, Indigenous Australians have a unique status as First Peoples. Second, they are recognized as such under international law (with associated rights to self-determination). Third, they have been subject to historical injustices by the state and are a disadvantaged minority group.\textsuperscript{157} Furthermore, in federal legislation, special measures to benefit Indigenous peoples have been accepted as being consistent with the \textit{Racial Discrimination Act 1975} (Cth) in the High Court (the highest Court in Australia and Court of final appeal).\textsuperscript{158} Australia has also ratified the \textit{Convention on the Elimination of Racial

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{154}Pearson, “Only Recognition.” See Pearson, “A Rightful Place.”
\item \textsuperscript{155}For an overview of the options and issues, see Appleby, “Indigenous Voice.” See also Appleby and Synot, “A First Nations Voice,” where the authors articulate five principles for effective constitutionalised institutional listening and suggest these can be adopted as conventions or practices. See Morris, “Constitutional Procedure,” 183–186 for discussion of how the proposal could be non-binding, non-justiciable, and would not disturb Parliamentary supremacy.
\item \textsuperscript{156}See e.g. Morris and Pearson, “Indigenous Constitutional Recognition.”
\item \textsuperscript{157}Lino, “Replacing the Race Power,” 59.
\item \textsuperscript{158}See e.g. \textit{Gerhardy v Brown} (1985) 159 CLR 70.
\end{itemize}
\end{footnotesize}
Discrimination; Article 1(4) states that special measures taken for the benefit of indigenous people do not constitute racial discrimination. That is an international recognition of the principle that providing specifically for indigenous people in a statute and/or the constitution does not amount to racial discrimination.

This approach broadly reflects Makarrata and the theology of reconciliation articulated above in the sense that special kinds of recognition firstly implement a kind of restitution by engaging in concrete action to pursue a harmonious relationship subsequent to conflict and injustice, and secondly acknowledge the historical and cultural distinctives of our First Nations people, celebrating them in a way that enables differences to exist peacefully. It is an aspect of restitution accompanied by other possible acts which give substance to repentance already mentioned above, such as land rights and changes in education and health. A voice to parliament is therefore a sensible outcome of our theology of reconciliation. By making special provisions for Aboriginal and Torres Strait Islander authority and participation, it acknowledges the former exclusion and paternalism which characterized treatment by the Australian settler state, reminding us of the confession through acts demonstrating holistic repentance. The presence of the voice in particular provides redress for the failure to listen and accord weight to indigenous voices in national decision-making at the highest levels of government. It also minimizes the possibility of passing racially discriminatory laws, removing the inclusion/exclusion logic of race by bringing the parties together in accordance with the Ephesian metaphor and the principles of Makarrata. Hence this act of restitution, among others, enables the pursuit of a recalibrated relationship, a renewed, peaceful and harmonious interaction which fully takes into account Indigenous self-determination and participation in governance without undermining the legal and political arrangements of Australia.

Conclusion

Reconciliation is by its nature a difficult process which entails acknowledgement of guilt for which many of us are not “personally” responsible, and substantive change which may be uncomfortable. Yet in a Christian theology of reconciliation, Christ took the sin and guilt of the world upon himself, and commanded us to do likewise. This is exemplified in the Parable of the Good Samaritan, where the Samaritan breaks down the legal and cultural categories of duty and obligation, and loved his neighbor in a selfless and sacrificial way. Rather than simply ignoring the prone Jew, for whom he had no officially recognized responsibility and to whom he was even hostile due to entrenched racial tensions between Jews and Samaritans, the Samaritan chose to rescue and provide for the Jew himself, seeking his good at personal expense and effort.159 In a similar way, though current Australian governments and the current Australian population may not bear direct responsibility for the atrocities of the past, our theology of reconciliation informed by Makarrata requires confession of these sins, and substantive action to pursue a harmonious relationship.

Ultimately then, reconciliation demonstrated by recognition of indigenous people through acknowledgement in the Australian Constitution of their just claims upon the nation is a Christian imperative. As Pastor Ray Minniecon, former Inaugural

159Deagon, From Violence to Peace, 188–193.
Chairperson of the Sydney Anglican Indigenous Peoples Committee, explains: “The Bible says that ‘righteousness exalts a nation.’ Recognizing and supporting Australia’s First Nations People’s right to self-determination, land rights and justice is a godly requirement.” Working for justice and reconciliation between Indigenous and non-Indigenous peoples by supporting Australia’s First Nations People’s rights to self-determination and better recognition and respect as the First Peoples of Australia is a godly way of living to which Christians are called. Truth-telling, repentance, apology, lament and restitution in various ways, including recognition of the First Nations People in the Australian Constitution and possibly other statutes, are all important parts of a Makarrata, a “coming together after a struggle,” that is the work of the whole of God’s people.

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Notes on contributor

Dr Alex Deagon is a Senior Lecturer in the Faculty of Law, Queensland University of Technology. His research focuses on jurisprudence, law and theology, and freedom of religion. His PhD, “Using Christian Theology and Philosophy to Construct a Jurisprudence of Truth,” received the Chancellor’s Medal for outstanding excellence. The PhD was subsequently published as a book in 2017: From Violence to Peace: Theology, Law and Community with Hart Publishing, Oxford. Alex has been published in prestigious national and international journals including Law, Culture and the Humanities, the Harvard Journal of Law and Public Policy, the Oxford Journal of Law and Religion, and the Melbourne University Law Review. Alex has been cited extensively by Parliamentary Committees and Inquiries on religious freedom, including in the proceedings of the Australian Commonwealth Parliament. He is a Senior Fellow of the Higher Education Academy and teaches in Theories of Law, Constitutional Law, and Evidence.

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160See https://www.eternitynews.com.au/australia/christians-call-to-share-land-profits-with-aboriginal-people/.
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