

Thinking for place in Australia: Owning the occupation

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Abstract: This paper takes as its starting point, the acknowledgement that the Indigenous nations of the continent of Australia have never ceded their sovereignty and as such the current nation-state of Australia constitutes a nation in occupation of other people's lands. From a philosophical perspective, the Settler-citizens of the occupied territories of Australia therefore emerge into the world as occupier beings. As the inheritors of a still post-colonising nation, can contemporary Settler Australians find a way to live together ethically with the Indigenous population? This paper uses topologically based philosophical thinking of place in an effort to seek more expansive ways of thinking that might furnish us with productive questions about the meanings of place and identity in a settler-colonial context. I apply topological thinking to reveal the interrelated nature of Settler identity and the key constructs of settler-colonial Australia, the "possessive logics" of the political and legal systems that enact and maintain the occupation. The paper concludes with a call to *thinking for place* as a mode of acting in attentive awareness of the interests of a place as a whole, and in so doing realising an ethical relationship with both place and all the beings enfolded in it. Through recognising and relinquishing Occupier subjectivity, Settlers might begin to transform and decolonise themselves and engage in a process of becoming other than Occupier.

Keywords: settler; place; identity.

As contemporary Australia continues to struggle with the question of whether to formally acknowledge the Aboriginal peoples of this continent in the preamble to the Australian constitution¹, a document created by Settlers to enshrine Settler agendas, it is

time to ask unsettling questions. By what right do non-Indigenous Australians make a claim over this continent and execute a governing document to supersede the sovereignty of Indigenous nations and their laws/lores? By what blind arrogance do Settlers expect sovereign Indigenous nations to be interested in being 'recognised' in the legal documents of what many consider an 'illegal occupying force'?² This same arrogance compelled the Turnbull government to reject the "Uluru Statement From the Heart,"³ a joint statement from Aboriginal nations calling for the establishment of a First Nations voice enshrined in the Constitution. As the inheritors of a still post-colonising nation (Moreton-Robinson 2003, p. 30), can contemporary Settler Australians live together ethically with the Indigenous population? There are certainly many different ways to approach such questions but in order to better engage with them, my first consideration in this paper is to examine what it is to *be*. What is the nature of *being* and in particular, for my purposes, how does *being* relate to place and to others?

While the problem of living ethically together is certainly political, it relates so squarely to the concerns of place and being-in-place that in seeking more expansive ways of thinking, topologically based philosophy (philosophy based in the *thinking of place*) is especially well equipped to furnish us with productive questions around space, place and being.⁴ Topologically based philosophy prepares us to think in three ways. Firstly, it lets us think *from* place, to be grounded, to speak from a particular place but also from a particular subject position. Ethics "are properly always situated" (Rose Bird 2004, p. 8); we all emerge from a time/place/body/situation which influences our ontological perspective and that is the embodied experience from which we speak, for, as John Roth (1999, p. xiv) argues, ethics are situated in bodies and in time and in place. Secondly, a philosophy of topos also enables thinking *of* place, so that we might consider the meaning or importance of particular places that can be considered sites or spaces, and how place allows space and site to appear (Heidegger 1975, pp. 150-152). Finally, topologically based thinking also allows us the exciting idea of thinking *for* place. In thinking for place one might think and act in the interests of a place or places. We might consider being and behaviour in the light of the needs of place: not such a strange thing if one reflects that the nature of our being is profoundly shaped by our relationship to place. As Jeff Malpas (2015, pp. 1-2) explains,

Place is everywhere—ambiguously so, perhaps, in that it is both *everywhere* ('all about') and every *where* (every place is a 'where' and every 'where' a place) ... still our thinking is essentially determined by where we are, by the contingencies of our own location (and one need not be a reductive materialist to claim that the place in which thinking takes place is indeed identical with the place of location of the body), and what it addresses is essentially given to us in and through the places in which we find ourselves.

Place and identity are inextricably linked, thus it is perhaps impossible to explore the thinking of place without also necessarily considering the spatio-temporal place of identity from which this thinking occurs. Thus the first two methods of thinking—thinking *of place* and *from place*—are relational and intertwined, flowing like currents in a stream, through the arguments that follow. I will begin by thinking of place and examine the nature of place in Australia, especially how the nation-state of Australia is constituted. However, this will necessitate considering what place means to Indigenous

and non-Indigenous Australians, and the nature of both our relationships to it. To begin to explore these questions, it is useful to examine private property in the context of settler-colonialism as it pertains to this country. There are some considerable differences in the significance of land and property, as well as the relationship of people to place, for Indigenous and non-Indigenous cultures. To illustrate, it would appear that where many Indigenous people claim to intrinsically belong to a place, Occupier Australians are often more concerned that the place belongs to them. More specifically, Indigenous people will most often introduce themselves by explaining genealogies and relationships to a place or places; non-Indigenous Australians usually locate themselves by identifying where they own property. For Indigenous Australians, "... where they are *is* who they are ..." (Wolfe 2006, p. 388, original italics), whereas for non-Indigenous Australians, what they *own* is who they are (Nicolacopoulos and Vassilacopoulos 2014, p. 58). Settler-colonialism has some important specificities of situatedness regarding the way it relates to both Indigenous people and the land. Settlers settle. They come to stay and they come to stay in a place, on land, on country that belongs to someone else. The driving factor behind Settlers' need to eliminate First Nations people was that "Indigenous people obstructed settlers' access to land" (Wolfe 2006, p. 388). Crucially, settler colonialists do not share land but take outright possession of it and in order to achieve this they must not only dispossess the original inhabitants, but also replace them as sovereign (Wolfe 2006, p. 388). As such, it is territoriality, as a method of *thinking of place*, that is a crucial defining element of settler colonialism and specifically how such territoriality relates to *ideas of place* or what can be described philosophically as *topos*.

How, then, did British territoriality operate in Australia;⁵ specifically, how was it that the country of the continent's Indigenous peoples was usurped by the British and turned into the legal entity known today as Australia? If one maintains, as I do, that the sovereignty of Australia's Indigenous peoples has never been ceded, how then are we to understand the imposition of *another* claim of sovereignty on this country: how did Australia become British? In short, British legal sovereignty was conferred through the doctrines of 'discovery' and 'occupation.' With the discovery of the New World by Europeans came a great power struggle for control of these regions. Prior to the seventeenth century, the church had played a major role in arbitrating state conflict; however, by the era of Hobbes' *Leviathan*, European legal theorists were using the jurisprudence of *jus publicum Europaeum* (European public law) to understand the expansion of European states and to legitimise colonialism (Dorsett and McVeigh 2002, pp. 291-292). It was this system of law, essentially the "International Law" of the time, that was used by the European colonial powers to determine between themselves the division of the spoils of conquest and exploration (Reynolds 1996, p. 87). Any prior claim that the Indigenous occupants may have had was of little concern. The apportionment of the New World was conferred through the concept of "title by discovery;"⁶ however, this could only be maintained through occupation. Indeed, an act of discovery was sufficient to give a clear title to sovereignty "only when it is accompanied by actual possession" (Reynolds 1996, p. 88). However, in the early years of the colony of New South Wales, "actual possession" did not extend to more than a radius of a few hundred kilometers from Sydney, hardly enough to give clear title to sovereignty over a continent. The British claim to Australia was weak in international law (Reynolds 1996, p. 90) and "survived less because of its intrinsic strength, or as a result of a rapid spread of settlement, and more because no European power was in a position, or had the inclination, to challenge it" (Reynolds 1996, p. 90).

On the question of prior claims to the country by Indigenous peoples versus the British reliance on the principle of *terra nullius*, there was at the time of invasion much uncertainty with the legal concept itself being the object of conjecture. Some theorists of “title by discovery” equated (what they perceived as) “uncultivated lands” with “uninhabited lands,” making country populated by peoples not deemed “farmers” open to possession and population by colonists (Reynolds 1996, p. 91). A further argument in support of legal *terra nullius* despite the obvious existence of a native population was provided through the idea that despite their presence, Australia should still have been considered *terra nullius* at the time of invasion because the locals had no recognisable systems of government (Reynolds 1996, p. 40). Indeed, as late as 1968, Justice Elizabeth Evatt defended the lack of a treaty and the probity of *terra nullius* as justifiable due to Australia being “inhabited by scattered unorganized tribes” (Evatt 1968, pp. 18-19). However, others were of a different mind, with early nineteenth century German scholars like Klueber and Heffter maintaining that only uninhabited land could be considered *terra nullius* such that no nation “regardless of its qualities can rob another of its property, not even from savages or nomads” (Reynolds 1996, p. 91). Many of those on the ground experiencing the occupation first hand also had qualms about the legality of British legal title; Protector of Aborigines G.A. Robinson conceded he was “at a loss to conceive by what tenure we hold this country” (Reynolds 1987, p. 179).

With *terra nullius* in dispute but with no serious legal challenge to its claim to dominion, the British government chose largely to ignore or diminish the presence of Indigenous people in Australia so far as questions of legal sovereignty were concerned (Reynolds 1996, p. 96). While it is apparent that legal theorists had a variety of positions on “title by discovery,” what emerges as a recurrent theme is an effort to distinguish “sovereignty” from “right of access.” Patrick Wolfe describes this as a

clear distinction between dominion, which inhered in European sovereigns alone, and natives’ right of occupancy, also expressed in terms of possession or usufruct, which entitled natives to pragmatic use (understood as hunting and gathering rather than agriculture) of a territory that Europeans had discovered. (Wolfe 2006, p. 391)

The attempted elimination of native societies would effectively establish the settler-colonial state as the only possible sovereign exercising exclusive dominion, underscoring for settler-colonialism its priority of the genocide of native peoples over their enslavement (Wolfe 2001, pp. 868-869). The invasion of Australia by the British led to the collision of two radically different systems of law/lore and meaning, two oppositional ways of thinking both *for* place and *of* place. With colonisation came the violent repression of one system by the other, although this has not been absolute nor without resistance.

Unfettered access to land is the requisite condition of both colonialism and capital in the interests of livelihood in the case of the former, and for the purposes of production in the latter (Harris 2004, p. 179). In settler-colonialism these two forces combine with virulent efficiency. Colonialism requires private property (Patton 2000, p. 123) and property ownership, to a large extent, conveys belonging in Australia (Nicolacopoulos

and Vassilacopoulos 2014, p. 58). Indeed, it is as property-owning subjects that white Settler Australians recognise each other as sovereign beings (Nicolacopoulos and Vassilacopoulos 2014, p. 58). As Aileen Moreton-Robinson reminds us, “Belonging in this new nation ... was racialized and inextricably tied to the accumulation of capital, and the social worth, authority and ownership which this conferred” (2003, p. 25). Both the convict and free settler forebears of today’s non-Indigenous Australians were desperate to own land of their own (the fact that it was stolen goods did not seem to bother them except in the rarest of cases) and land ownership soon became ingrained in Settler Australian culture (Bruce and Kelly 2013, p. 417) as a kind of birthright exemplified by Prime Minister Robert Menzies’ (1942) “Great (White) Australian Dream” of home ownership. In Australia today, home ownership embodies a sense of “... entitlement and an expectation of economic and social advancement” (Bruce and Kelly 2013, p. 416). These are perhaps not such different dreams to those of their settler ancestors. Coupled with this sense of entitlement and the expectation of wealth, many young Australians striving to buy their first home identify the house they own as a primary source of identity (Beer, Kearins and Pieters 2007; Clapham 2010).

Leaving the suburbs and heading out into the countryside, Australian historian Peter Read’s works *Belonging: Australians, Place and Aboriginal Ownership* (2000) and *Returning to Nothing: The Meaning of Lost Places* (1996) exemplify a characterisation of the Australian pastoralist as belonging deeply to country. This is demonstrated in the negative in *Returning to Nothing* where pastoralists who have ‘lost their land’ are revealed to have suffered a loss so deep Read equates it with the dispossession of Aboriginal peoples (Read 1996, p. 69). Such erasure of difference, in both the experience of dispossession and its meaning to Aboriginal people, is rooted in the rhetoric of the ‘white blackfellows’ of the 1930s and 1940s. Those such as the *Jindyworobak* literary movement seemed to hope that a little bit of belonging would rub off, if they appropriated some of the ‘window dressing’ of what they constructed as Aboriginal culture. For Peter Read’s pastoralists, loss of land reveals to them a depth of belonging only realised upon its loss. In a reversal of the usual settler-colonial practice of turning earth into land as a commodity to be transacted, when Read’s pastoralists lose their land they experience the “transformation of land into country, of a house into a home, [which] is enabled only through the experience of dispossession” (Gelder 2005, p. 171). Thus, it is through their dispossession that Read’s pastoralists are revealed to locate their identity in possession of what they perceive themselves to be entitled to, their country. The possession of occupied territory is at the heart of non-Indigenous Australian identity, and as Occupiers this identity lacks both integrity and sound legal reckoning. Settler Australians have attempted to confer belonging via land title: making boundary pegs a stake in the heart of any authentic settler Being on this land. Such acts of occupation are underpinned by a series of discourses invested in “reproducing and reaffirming the nation-state’s ownership, control and domination” that Aileen Moreton-Robinson describes as “possessive logics” (2015, p. xii). White political and juridical institutions then actualise these “possessive logics” in the form of property laws and other rulings.

In order to establish private property as a legal entity, colonial powers must first complete the task of turning ‘earth’ into ‘land.’ Settler-colonialists claim earth and turn it into land by utilising a number of processes. One of these is through the use of labour (their own or that of others in their employ) to work the land in such a way that gives

them rights over it. Indigenous Australians belonged to societies that had no use for 'work' or 'labour' as understood by Europeans and so were not deemed to 'work the land' in a way that established a claim to it in the minds of Settlers. Aboriginal people were commonly characterised by Settlers as "aimless wanderers with no sense of property at all" (Reynolds 1989, p. 71). As historian Henry Reynolds (1992, p. 19) remarks, "the commonly held view has always been that the Aborigines had no land rights because they were not farmers, did not enclose the land and did not till the soil." However, recent works such as Bill Gammage's *The Biggest Estate on Earth* (2011), Bruce Pascoe's *Dark Emu Black Seeds* (2014) and Rupert Gerritsen's *Australia and the Origins of Agriculture* (2008) put lie to such views and provide substantial evidence of complex aquaculture, agriculture, animal herding systems and semi-settled village life across the continent. The myth of the wandering nomad provided a convenient cover for appropriating country and establishing pastoral properties to run sheep for Her Majesty's woolen mills. In such a fashion, the lie of the land was established. Once portions of earth were captured and turned from hunter-gatherer territorial assemblages into "land," the productivity of such portions of land could be assessed, appropriated and exploited (Patton 2000, p. 123). In order to create "land" as private property, a juridical system informed by "possessive logics" was required to protect and enhance British claims. As such, the white Settler legal system acted and continues to act as an "apparatus of capture" (Deleuze and Guattari 1987, pp. 437-448) when it established the sovereignty of the coloniser through the deterritorialisation of Indigenous territories (Patton 2000, p. 124). The transformation of earth into land and from land into private property is crucial to establishing the legitimacy of Occupier claims to sovereignty under the Settler legal system.

While the imposition and later manipulation of the doctrine of *terra nullius* facilitated the development of private property in Australia, it has also served the political ends of the Settler community. Despite the fact that the doctrine of *terra nullius* has been overturned by the Mabo judgement, the juridical and political agents of the occupation have contrived to continue to deny Aboriginal people political sovereignty. Indigenous populations already had their own forms of social and political organisation, so in order for colonisation to occur "... they needed to be 'deterritorialized' before they could be 'reterritorialized' as dependent colonies of the relevant European state" (Patton 2010, p. 103). The juridical process by which this was realised in Australia occurred through a number of judgements, the most significant of which are arguably the Mabo and Wik decisions of the High Court of Australia and the parliamentary responses to these decisions, the *Native Title Act 1993* and the *Native Title Amendment Act 1998*. In 1992, *Mabo v Queensland (No. 2)* found that the Meriam people of the Murray Islands in the Torres Strait did in fact have a concept of land ownership and that this sovereignty had not been extinguished by the Crown (Yunupingu 1997, p. 233). In making this ruling the High Court introduced to Australian law, the concept of "native title" (Yunupingu 1997, p. 233). In response to this recognition of sovereignty, the Parliament legislated the *Native Title Act 1993*, which effectively limited the recognition of Aboriginal sovereignty to those claimants who could prove through their traditional laws and customs that they have maintained a continuing connection to land or waters (Yunupingu 1997, pp. 235-237). Those limited rights were further circumscribed to achieve "certainty" and "workability" for the benefit of miners and pastoralists (Office of Indigenous Affairs 1996, para. 18) by the Howard government's *Native Title Amendment Act 1998*. Commonly known as the Ten-Point Plan, it was drafted to limit

the High Court's 1996 Wik decision that native title and pastoral leases could co-exist. The Ten-Point Plan "... provided for the subordination of native title to other interests ..." and was "... directed to the wholesale diminution of native title rights" (Bartlett 2004, p. 53). Thus, it is clear that in exercising "possessive logics" as agents of the occupation,

both the Parliament and the courts have been responsible for the alternating delineation, expansion and curtailment of the rights of indigenous Australians. This serves as a reminder that native title, from a settler point of view, is as much about politics as it is about law. (Tehan 2003, p. 524).

Prior to Mabo, the popular view among Settlers was that Aboriginal peoples had no rights to land. As a judgement made by the agents of the occupation, Mabo will always be problematic for those who do not recognise the legitimacy of the High Court to make any ruling. However, the Mabo decision did change the political and legal landscape such that "Indigenous interests in land could no longer be ignored" (Tehan 2003, p. 525). Indeed, then Prime Minister Paul Keating stated in his 1992 Redfern address that Mabo should be a "... building block of change ..." ⁷ that might herald new relationships between Indigenous and non-Indigenous Australians. Twenty-five years later, neither the law nor politics have yet delivered even the limited degree of sovereignty extended by Mabo. As Indigenous leader Noel Pearson (2003) laments, "... the failure of law to live up to the promise of Mabo is now apparent." Even before Wik and the Native Title amendment acts came into being, some commentators felt Native Title as figured by Mabo was too weak a form of land tenure to be useful to many Aboriginals (Hunter 1993, p. 97). As then Prime Minister Keating (1996, p. 45) explained,

It was not, however, of great practical benefit to the majority of Aboriginal peoples and Torres Strait Islanders. Most will not be able to prove the continuing association with their land necessary to claim native title. Many retain a strong attachment to their traditional country, but will be denied native title rights as a result of prior alienation of the land concerned. Many also remain on the margins of this country's economic, social and cultural life.

As it stands, the Occupier government remains legally sovereign under white law, and for Aboriginal people to make a land claim they must first relinquish their prior claim to land, their sovereignty, and stake a claim under the limited terms made available to them by the Occupier's law. In this way Indigenous Australians are first *deterritorialised*, when their original sovereignty is denied and then *reterritorialised*, through the possessive logics of Mabo, Wik, and the Native Title acts and amendments, which gave very limited tenure on the Occupiers' terms. This process makes Aboriginal people refugees within their own country; they have been made stateless and now have to prove ownership of their own land using a system designed to dispossess them and to work in the interests of the occupation (Foley 2007, p. 123). It was partly to highlight this situation of internal exile, of being as Gary Foley⁸ puts it, "aliens in our own land," (Foley 2007, p. 123) that Aboriginal activists set up the 'Aboriginal Tent Embassy' on the lawns outside parliament in Canberra in 1972. The nature of place and

its legal and political meanings to Indigenous and non-Indigenous Australians are today still highly contested and just as fraught as ever. Both politics and law seem to be struggling to provide the kind of thinking required for ethical co-existence. Aboriginal people continue to exist, resist and assert their sovereignty over this country and Settler Australians continue to struggle to find a legitimate identity grounded in this place despite their insistence on their right to claim sovereignty over it. Rethinking identity and belonging leads us back to ontology and questions of being, of who Settlers are, and more specifically who they are in a particular place: in this case, Australia.

Human identity is entwined with place; most often we assert our identity through our claim of belonging together with a place and just as identity may be intricate and various so might be those places with which humans claim belonging. Despite a desire for fixedness, Settler Australians are drawn into an unsettled space of shifting meaning and questionability where our relationships to belonging and place are constantly in a state of renegotiation. This is a condition opposed to the mythic “relaxed and comfortable Australia”⁹ where unified white Settler identity is irrefutably established—except that it isn't, because the very existence of Indigenous resistance in Australia reveals the lie of Settler sovereignty (Nicolacopoulos and Vassilacopoulos 2014, p. 15).

Settlers claim to be sovereign over this country, yet from where do Settlers garner the legitimacy of their claim? Thus far I have considered the legal and political rationale behind settler claims to sovereignty. I will now address how the legitimacy of settler sovereignty fails from a philosophical perspective. The notion of sovereignty being applied here is an ontological sovereignty defined by philosophers George Vassilacopoulos and Toula Nicolacopoulos (2014, p. 90) as the way in which a collective “... primordially appears and announces itself as sovereign creator of a collective destiny, implicates its members' emergence in the world and hence the question of sovereignty at the ontological level.” Importantly, one emerges as a ‘being-in-the-world,’ as a sovereign being, through the *practice* of sovereignty and not because of one's relationship to external institutions of juridical or political nature. It is in such a way that Aboriginal peoples carry their relationship to land and sovereignty within themselves as something inalienable and prior to juridical sovereignty (Brady 2007, p. 150). Since Roman times, Western ontology has stemmed from a collective “gathering-we” of private property owners, where “[i]n this case I emerge in the world by owning something specific, by claiming it as exclusively mine and, in doing so, claiming my emerging and unique being as exclusively mine” (Nicolacopoulos and Vassilacopoulos 2014, pp. 38-39). Problematically for the Occupier, that which we claim ownership over, for the purposes of emerging as sovereign, already belongs to someone else and thus results in a lack of ontological sovereignty. It is not that the private property owning being cannot be sovereign over property per se; it is that this being cannot be sovereign over a specific ‘property,’ namely that which is already owned by its Aboriginal ontological sovereigns. It is clear then that ontological sovereignty is not conferred temporally but via collective origins, and this is why a statement of origins is integral to establishing the legitimacy of sovereignty and which the Settler nation has thus far failed to provide.

Settler-colonial ontology was, and continues to be, responsible for the dispossession of Indigenous Australians but more specifically it was Occupier Australians' conceptualisation of being, of what it means to be human and what it means to be in and

of a place (and thus what constitutes ownership and sovereignty) that is at the core of this dispossession. As part of a process of claiming an authentic belonging and relinquishing or becoming other than Occupier, non-Indigenous Australians are required to give an honest account of themselves; Settlers must provide a statement of origins. Occupier identity as an experience of 'being-in-the-world' is deeply connected to a misguided sense of our sovereignty over this country. In the process of giving an honest account of oneself, one emerges into the world, becoming visible, whether one is in one's own place as sovereign, appears in another's sovereign place as a migrant, or appears as an Occupier in a place one has stolen from its genuine owners (Nicolacopoulos and Vassilacopoulos 2014, p. 9). All Occupiers must answer when asked by Indigenous peoples, "Who are you? Where do you come from and how do you come to be here?" Why must the Occupier give an answer? Occupiers must answer because it is from the subject position of legitimate ontological sovereign beings, that Indigenous peoples have the authority to put this demand (Nicolacopoulos and Vassilacopoulos 2014, p. 9). As uninvited guests, Settlers are required to respond. An honest account of one's Settler self means owning up to the fact that non-Indigenous Australians are people of a nation in occupation of someone else's land. Such an act is a radical act of *thinking for place*, of acting in attentive awareness of the interests of that place as a whole, and in so doing realising an ethical relationship with both place and all the beings enfolded in it, rather than simply considering one's individual needs or desires. Through recognising and relinquishing Occupier subjectivity, *thinking from place* in a consciously embodied way, Settlers might begin to transform and decolonise themselves. Indeed, the only thing Settlers can legitimately 'own' in this country in its current configuration is the truth of their Being as Occupiers.

¹ For further information about constitutional recognition, see the Referendum Council website (<https://www.referendumcouncil.org.au/>). Some activists argue that the movement for constitutional recognition diverts attention from campaigns to settle treaties with Indigenous nations. For further information on the treaty campaigns in Australia, visit <http://www.australianstogether.org.au/stories/detail/why-treaty>; or the creative spirits website (<https://www.creativespirits.info/aboriginalculture/self-determination/would-a-treaty-help-aboriginal-self-determination#axzz4gAN9WvKs>).

² See Aileen Moreton-Robinson (ed.), *Sovereign Subjects: Indigenous Sovereignty Matters*, Crows Nest, NSW: Allen and Unwin, 2007; and works such as the Manifesto of the "Warriors of the Aboriginal Resistance" (https://issuu.com/brisbane-blacks/docs/war_manifesto_d91595ceee8754).

³ See [https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru State ment From The Heart 0.PDF](https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru%20Statement%20From%20The%20Heart%200.PDF)

⁴ See the following works for more detailed discussions of these ideas: Edward Casey's *Getting Back into Place*, Bloomington: Indiana University Press, 1993, and *The Fate of Place*, Berkeley, CA: University of California Press, 1997; Gaston Bachelard's *The Poetics of Space*, London: Penguin, 1969; Husserl's *Thing and Space: Lectures of 1907*, trans. R. Rojcewicz, Netherlands: Springer, 1997; Maurice Merleau-Ponty's

Phenomenology of Perception, trans. D. Landes, London: Routledge, 2013; Heidegger's *Being and Time*, trans. J. Macquarrie and E. Robinson, Oxford: Blackwell, 1962, and his lecture "Being Dwelling Thinking," in *Poetry Language Thought*, trans. A. Hofstadter, New York: Harper Collins, 1971. See also the work of Jeff Malpas, *Place and Experience: A Philosophical Topography*, Cambridge: Cambridge University Press, 1999, and *The Intelligence of Place: Topographies and Poetics*, London: Bloomsbury, 2015; and Paul Patton, *Deleuzian Concepts: Philosophy, Colonization, Politics*, Stanford, CA: Stanford University Press, 2010, for an Australian context.

⁵ Indigenous peoples from the many nations whose lands are currently occupied by Australia write eloquently on the nature of *their* relationship to place. To read Indigenous authors on place, begin by reading the essays in Aileen Moreton-Robinson (2007); the novels of Kevin Gilbert, Alexis Wright, Tony Birch, Kim Scott, Melissa Lucashenko and also Lucashenko's essays "Country: Being and Belonging on Aboriginal Lands," *Journal of Australian Studies*, no. 6, 2006, and "More Migaloo Words?" *Overland*, no. 163, winter, 2001. This is a very short and by no means definitive list of authors.

⁶ For varying analyses and discussions of the principal formulations of the doctrine of discovery, see, for example: Anthony Anghie, "Francisco de Vitoria and the colonial origins of international law," in Eve Darian Smith and Peter Fitzpatrick (eds.), *Laws of the Postcolonial*, Ann Arbor: Michigan University Press, 1999, pp. 89-107; Andrew Fitzmaurice, *Humanism and America: An Intellectual History of English Colonisation, 1500-1625*, Cambridge: Cambridge University Press, 2003; David Kennedy, "Primitive Legal Scholarship," *Harvard International Law Journal*, vol. 27, 1986, pp. 1-98; Mark F. Lindley, *The Acquisition and Government of Backward Territory in International Law*, London: Longmans, Green, 1926; Robert A. Williams, Jr., *The American Indian in Western Legal Thought: The Discourses of Conquest*, Oxford: Oxford University Press, 1990, especially pp. 233-286.

⁷ Redfern Speech (Year for the World's Indigenous People) – Delivered in Redfern Park Sydney by then Prime Minister Paul Keating, 10 December 1992. Australians for Native Title and Reconciliation (ANTaR) website https://antar.org.au/sites/default/files/paul_keating_speech_transcript.pdf.

⁸ Foley was one of a group of activists instrumental in establishing the Aboriginal Tent Embassy. For more detail, see Gary Foley, Andrew Schaap and Edwina Howell (eds.), (2014) *The Aboriginal Tent Embassy: Sovereignty, Black Power, Land Rights and the State*, London: Routledge.

⁹ This phrase was coined in an interview with then Prime Minister John Howard about his conservative vision for Australia. See the edited transcript of Liz Jackson's interview with John Howard, during the 1996 Election Campaign, for the *Four Corners* program "An Average Australian Bloke," first broadcast on 19 February 1996, available at <http://www.abc.net.au/4corners/content/2004/s1212701.htm>, viewed 2 April 2017.

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