

INTRODUCTION

Few concepts in Western political thought have been more closely entwined with the history of empire, colonization and colonial policy than 'civilization' and 'savagery'. While these concepts are likely to be considered today as superannuated or unfashionable, it was not always so. In 1837 a writer in the *Edinburgh Review*, who was probably Herman Merivale, the then Drummond Professor of Political Economy at Oxford University, wrote that,

Savages – 'septs of hunters and fishers', – are of great use to political economists, as well as to political philosophers; their condition serves as a sort of zero in the thermometer of civilization, – a point from which there is a gradual rise towards perfection. They are thus very valuable in hypothetical reasoning ...¹

Here, some ten years before he became Permanent Undersecretary of the Colonial Office and before the publication of his celebrated *Lectures on Colonization and Colonies* (1839), Merivale captured the conceptual significance of 'savagery' and 'civilization' in European political thought. That significance rested on their dualistic nature. Both concepts hovered uneasily between fiction and reality or, as Merivale put it, between 'hypothesis' and 'condition'. 'Savagery' served as both a real condition of social life (exemplified by 'septs of hunters and fishers') and as the foundation for claims to civilization.² This foundation was conceived as both historical (in the sense that progress towards civilization began in savagery) and normative (in the sense that the notion of civilization was deemed superior to savagery).

The Empire of Political Thought traces the discursive construction of 'savagery and civilization' in relation to Australia's Indigenous peoples from 1788 to the end of the nineteenth century.³ The Australian colonial context has characteristically received less attention from scholars of political thought than the more familiar Atlantic colonial heritage.⁴ Typically, Australia's colonization has been seen as an 'exception' to the Atlantic pattern (and to the later colonization of New Zealand) due to the absence of any treaties between the colonizers and Australia's Indigenous inhabitants.⁵ Perhaps because of this, most political theoretical studies of empire and colonization have consigned the Australian

colonial context to little more than a footnote.⁶ I will argue, however, that the Australian colonial experience can be used to highlight theoretical issues of global relevance. Indeed, lying behind Australia's apparently 'exceptional' absence of a treaty, is a long inter-colonial history of construing Indigenous peoples as a problem for colonial government.

By focusing attention on the political theoretical aspects of colonization, I seek to contribute to the efforts of activists, scholars and jurists to redress the legacies of colonialism in Australia and elsewhere.⁷ In doing so, they must come to grips with the intellectual framework of European colonization. In speaking of an 'intellectual framework', I mean to highlight the ways in which the conceptual language spoken by the colonists framed their understanding of the policies and techniques of government they adopted. In particular, when colonists used terms drawn from the traditions of Western political thought, such as 'government', 'property', 'sovereignty', 'society', 'savagery' or 'civilization', they did not only use them simply as descriptions. Rather, these terms formed part of a wider discourse in which moral and political claims about themselves and others were advanced.⁸ In this sense, colonial 'descriptions' of Indigenous peoples as 'savages' with no 'society' or a limited 'government' also operated as a foundation for advancing claims about how they should be treated in the new colonial order. Consequently, the ongoing struggle of Indigenous peoples for genuine recognition of the continuity of their evolving identities has been one fought as much against the *language* as against the *institutions* of colonization.

Much attention in this regard has been devoted to the contested role of *terra nullius* in Australia's colonization. The term *terra nullius* originated in the discourse of international law, where it had been used since the nineteenth century to describe lands declared to be vacant or unowned, even when obviously inhabited. In the landmark *Mabo v. State of Queensland* decision (1992), the Australian High Court officially recognized the continuity of native title over some traditionally owned lands and waters.⁹ In doing so, the Court explicitly overturned *terra nullius* in Australian law. Since its application by the Privy Council in 1889, this doctrine effectively established that, at the time sovereignty was asserted in Australia by the British Crown in 1788, the land was not owned by the Indigenous peoples then living upon its entire surface. In overturning that doctrine Chief Justice Brennan, as well as the concurring Justices Deane, Gaudron and Toohey, claimed that Australian law must now 'recognize' what had long been denied; the fact of prior Indigenous occupation of the land, and the continuity of rights that followed from that occupation. In making this finding, the High Court decided that the common law could recognize native title in some cases, but that this limited acknowledgement implied no recognition of Indigenous sovereignty.¹⁰

Much debate has hinged ever since on whether *terra nullius* really did play a role in early Australian colonization, or whether the High Court fell under the influence of historians (especially Henry Reynolds) who asserted that it had.¹¹ I will argue that we need to look beyond *terra nullius* to other deeply entrenched European concepts, ideas and assumptions that were applied in the colonial dispossession of Indigenous Australians. In order to understand how these ideas and concepts were applied, it will be argued that Australia's colonization needs to be understood in light of the development of Western political thought. The traditions of Western political thought provided the conceptual resources that colonists employed in their interpretations of Australia's Indigenous peoples. In arguing so, I want to emphasize that colonists in Australia were not simply 'anthropologists' who dispassionately observed the Indigenous inhabitants. Rather, they constructed images of the Indigenous peoples they found already inhabiting the land based on a series of concepts associated with European understandings of 'savagery and civilization'.¹²

Civilization is not an easy term to define. The term itself emerged in European discourse in the eighteenth century, but its origins lay in a range of sources in European thought in the sixteenth and seventeenth centuries focused on defining the qualities of European 'civility' and 'civil' life. A primary aim of these sources was a desire to distinguish 'civil' or 'cultivated' Europeans from other peoples (both inside and outside Europe) on the basis of their own 'superior' attainments in manners, refinement, wealth or social and political development. 'Savages' by contrast were identified with Indigenous peoples whose communities, cultures, traditions and aspirations were assessed in terms of a conceptual scheme imbuing pervasive assumptions about 'civilized' 'superiority' and 'uncivilized' 'inferiority'. This opposition could be deployed as a means to critique European societies and customs by drawing attention to the corruption of civilization, or the nobility of 'savages'. As I will show (especially in chapters 1 and 2), however, such critique was hedged by pervasive assumptions about 'savage' deficiencies and especially their assumed 'primitiveness'.¹³ I will also argue (especially in chapters 3 to 6) that ideas of 'savagery' and 'civilization' played a key role in shaping the formulation of colonial policies for the government of Indigenous peoples in Australia by framing the problems they were thought to present to European settlement.

It is the process by which Indigenous people were assimilated within the conceptual framework of 'savagery and civilization' that I refer to in this book as 'the empire of political thought'. In speaking of the 'empire of political thought' my aim is to emphasize how the development and articulation of colonial discourse in Australia made use of concepts drawn from the traditions of Western political thought that were applied in the effort to 'subject' Indigenous people to colonial law, government and knowledge. By using the words 'subject' and 'subjection', I

do not mean to imply Indigenous passivity. Nor do I mean to suggest that this 'subjection' was always effected. Rather, I want to explore how the language of colonization was used to construe Indigenous peoples as subject to colonial government. At times, as I will show in Chapter 4, even active Indigenous resistance could be construed as evidence of 'savagery', and of the supposed need to 'subject' them to government. Of course, I do not claim that this 'subjection' was self-consciously carried out by political theorists. Rather, I want to emphasize that the concepts of Western thought live beyond the rarefied realms of professional political theory. My aim is to locate how theoretical concepts were invoked, applied, often questioned, and sometimes transformed by a range of actors, including colonial governors and imperial administrators, missionaries, military officers and ordinary colonists.

The need to address the colonial uses and legacies of these concepts is reinforced by debates over their use in contemporary Australia. Indigenous peoples in Australia and elsewhere articulate their visions of political (and cultural) self-government and self-determination by employing concepts of Western political thought they recognize as both enabling and constraining.¹⁴ Much more problematic are the recent efforts of revisionist historians to rehabilitate the image of 'civilized' British colonization. Keith Windschuttle, for instance, has recently argued that the purpose of British colonialism (since 1688) was oriented towards demonstrating 'by example the benefits of the civil and polite customs of Europe'.¹⁵ In this sense, he interpreted British colonization of Australia as the process by which the 'gifts' of civilization and new lifestyles were bestowed on the Indigenous inhabitants.¹⁶ This interpretation of the language of civilization, and the assumptions informing it, is peculiarly one-sided. Windschuttle understands civilization solely by reference to the claims made by its defenders, and fails to account for how it was used in colonial contexts to assimilate the presence and define the problems of governing Indigenous 'subjects'.

As Krygier and van Krieken have noted, Windschuttle's position rests on the highly contestable distinction between the 'Black Legend' of Spanish conquest and violence, and the supposedly pacific and highly civilized British 'empire of trade'.¹⁷ Indeed, British efforts to construe their own imperial activities as peaceful were carried on in the face of considerable contrary evidence. Some contemporary British and European colonists and observers perceived the paucity of colonial claims to any superior 'civilization'. Indeed, the language of Western political thought has a dual-sided character. It has been used in apparently divergent ways both to sustain the claims of empire, and at times to support calls for its reform or removal.¹⁸ Even in opposition to empire, however, the image of European 'civilization' was tied to the projection of its supposed opposite, 'savagery'. Crucially, these two images were never purely descriptive, nor simply terms of recommendation or castigation. Rather, they were used to *construct*

images of 'savagery' or 'civilization'. These images could then be projected onto others with the appearance of description, thereby assimilating these others into a Eurocentric conceptual framework.

'Civilization and savagery' were thus key concepts in the discursive strategies employed by Europeans in their colonial endeavours. In the Eurocentric language of Western political thought, Indigenous peoples were regularly portrayed as 'primitive', exhibiting a supposedly 'savage' or 'barbarous' condition over which Europeans could assert their 'superior' government, law and knowledge.¹⁹ It was a language in which the complexity of Indigenous lives was effaced while Europeans projected their own image of Aboriginal 'savagery' and European 'civilization'. While the doctrine of *terra nullius* provides a convenient target for debate over colonization in Australia, arguments over its application have deflected attention from how a range of other concepts were deployed in this colonial context.²⁰

Whither Terra Nullius?

In the history of British imperial administration of 'subject peoples', Australia has often been seen as something of an exception. Arguably, this 'exceptionalism' has been reinforced by the post-*Mabo* focus on *terra nullius* and the widespread feeling that what set Australia apart from other imperial dominions was that here, possession and colonization were justified by the rigorous application of the doctrine of *terra nullius*.²¹ For others, *terra nullius* was merely a 'convenient assumption' used by the colonists to deny Indigenous ownership of the land and assert that 'officially, Aboriginal peoples did not exist'.²² At first glance, there seems much compelling evidence to support this view. No officially declared war of conquest was ever waged in Australia as in India or parts of Africa. No officially endorsed treaty was ever signed between British representatives and Indigenous peoples as in the former American colonies or New Zealand. No officially endorsed surrender of lands was ever signed by Indigenous peoples in Australia as in Canada. In short, there was no official acknowledgement of Indigenous property rights, nor any recognition of Indigenous polity or polities.²³

Notwithstanding all that, it would be misleading to suggest that the doctrine of *terra nullius* was applied by the British in 1788 or in 1770 when Captain James Cook took possession of the east coast of the continent then known as New Holland.²⁴ Nor would it be accurate to claim that simply because of that doctrine, Indigenous Australians were denied political rights such as citizenship, or recognition of their own laws. Nonetheless, this view is not uncommon:

The invasion of Australia was justified even before 1788 by the lie of *terra nullius*. Even in 1788 many whites recognized it to be a lie. It caused immense complications for the Aboriginal people, whose citizenship should have been automatic according

to the British rules of citizenship. If, as the *terra nullius* doctrine claimed, Australia was uninhabited or desert and belonged to no one in 1788, then the Aborigines simply had to vanish from state calculations.²⁵

This view poses some serious problems (explored in Chapter 3), not least in the dubious assertion that the British in 1788 possessed ‘rules’ by which ‘citizenship’, a term that many Englishmen at the time associated with the opprobrium of the American and French revolutions, could be accorded to Indigenous peoples.²⁶ More importantly however, this view implies that the British expressly justified their possession and colonization of Australia by the doctrine of *terra nullius* which facilitated the deliberate attempt to make the Indigenous inhabitants ‘vanish’.

Such a view is compounded by those who have similarly claimed that *terra nullius* allowed the British to ignore the evidence of occupation. In other words, had the British found that,

... the Aborigines were not truly nomadic, that they had indeed mixed their labour with the land, and that they lived within a complex social, political, and religious framework – that is, had the British *not* seen New South Wales to be *terra nullius*, then they *would* have negotiated for the right to settle ...²⁷

Did the British simply choose to ‘ignore’ the evidence of Indigenous habitation and occupation in Australia? Did they employ the doctrine of *terra nullius* to obscure those inhabitants and the evidence of their occupation of the land from sight? To argue that they did, one sustains a kind of incipient ‘Australian exceptionalism’, by which Captain Cook’s failure to ‘obtain the consent of the natives’ to annexation in 1770, and Governor Phillip’s failure to obtain their consent to colonization in 1788, is contrasted to the history of negotiation elsewhere. Indeed, there are important differences between the stories of each colonial dominion’s imperial rule, but it is not clear that the supposed application of *terra nullius* in Australia’s case is one of them.

What is more, to suggest that the British used the doctrine of *terra nullius* to obscure the visibility of Australia’s Indigenous people, to make them ‘vanish’, is to misunderstand how the colonizers and their successors construed what they ‘found’ there and their responses to it. I will argue in this book that the language of political thought the British employed was premised on Indigenous *visibility* rather than *invisibility*. In doing so, my aim is not to provide a history of colonial policy formulation. Rather, my objective is to trace the operation of the often unstated, though sometimes quite explicit, assumptions, ideas, normative claims and conceptual terminology that framed the colonial representation of Indigenous peoples in Australia. I do not claim that Western political thought provided the tools that determined colonial policy. As Phillip Curtin observed long ago, however, any study of policy must ‘take account’ of the ‘world’ of

assumptions, concepts and values, and thus come to see that such assumptions and ideas, no less than the dry formulations of policy itself, 'helped to influence the course of future history'.²⁸ In seeking to refocus attention on the conceptual analysis of Australian colonization, I will not seek to deny that there were many 'exceptional' qualities to the colonial experience in Australia. Rather, I want to suggest that in emphasizing the exceptional, we lose sight of the continuities in European discursive constructions of Indigenous peoples in different colonies.

Colonization and Political Thought

The relationship between political theory and imperial practice was rarely if ever determinative. Political theorists did not provide an 'ideological' blueprint for imperial adventurers, governors or administrators. In fact, the relationship is notoriously difficult to define. Edward Said has argued that European nations were 'impelled' to empire, at least in part, by 'impressive ideological formations' within Western culture that reduced non-European 'subjects' to an 'inferior' status.²⁹ What was, and in Said's view remains, distinctive about Western culture was its reliance upon and 'symbiotic' development alongside the experience of imperial rule of subject peoples. The self-image of Western culture hinged, he thought, upon a conceptual language that 'occlude[d]' that relationship.³⁰ As a range of recent commentators have shown, however, there was little 'occlusion' of the relationship in the work of a host of political thinkers who were explicitly concerned with questions of imperial conquest, acquisition and rule.³¹ One could, for example, quite predictably draw attention to the work of John Locke or John Stuart Mill, or less predictably to thinkers such as John Millar or Adam Ferguson, whose work was less obviously imperialist, but nonetheless reflected a deep awareness of the conceptual implications of the imperial experience.³²

The Indigenous American scholar Robert Williams has spoken of 'Europe's will to empire' expressed in the application of supposedly 'universally' binding legal doctrines to Indigenous peoples, emanating from the medieval heritage of Papal and later humanist assumptions of the 'superiority' of European power and knowledge.³³ Among the 'Cambridge School' of historians of political thought, some have spoken of the 'ideology of empire'. Armitage, for instance, defined the purpose of his insightful enquiry, not in terms of showing that the 'origins of the British Empire' were to be found 'only in ideology', but of how the 'constitutive elements of various conceptions of the British Empire arose in the competitive context of political argument'.³⁴ Similarly, Anthony Pagden has claimed that what he was interested in was to 'understand how Europeans thought about the empires which they had created' and 'how that thinking changed over time'.³⁵ 'Thought about empire' however, has a rather different connotation to 'ideology of empire'. Subsequently, Pagden claimed that '[i]nsofar as ... [later] European

imperialists possessed any declared ideological objectives ...' at all, they were defined in terms of the 'transfiguration' of earlier *anti*-imperial discourses into a discourse of 'world-wide civilization based upon European political and social principles.'³⁶

The Empire of Political Thought takes its cue from these studies, but has different objectives. I do not seek to uncover any 'ideology of empire' or 'will to empire' in the history of Western political thought. Rather, I seek to study how key concepts in Western political thought were deployed and developed in the interpretation, representation and articulation of colonial policies for the government of Indigenous peoples in Australia. This does not suggest that colonial administrators were always motivated by political theoretical considerations. The relationship between political thought and action in imperial history is, as Marshall and Williams point out, often 'confused' and far from 'simple'.³⁷ Nevertheless, all colonial actors made sense of their situation by using a language of concepts imbued with a real, though often unexplored, moral and political significance. This is as true of us in the twenty-first century in speaking of 'terrorism' or 'globalization' as it was for colonists in the eighteenth century in speaking of 'savagery' or 'civilization'. This does not mean that when colonists used these terms they did so unthinkingly. Any study of the conceptual language of politics must be attuned to the nuances of usage, to delineate blind adherence from reflective employment or critical appraisal of those concepts.

At times, theoretical concepts clearly shaped European perceptions of Indigenous peoples, the representation of the 'problems' they were thought to present, and the conceptualization of the tasks of governing them. At other times, however, the concepts themselves were not simply transplanted, but were shaped and developed in the context of their application in imperial contexts. The meanings of these concepts can often be traced to major schools of political thought, or even to individual thinkers. More often, however, we find a complex development of the language and its concepts in which they were applied and found wanting, and had to be redefined not by acknowledged political theorists, but by colonists themselves, whether governors, functionaries, farmers, missionaries or administrators. Such a study tells us something of the development and meaning of the central concepts in the Western tradition of political thought but, perhaps more importantly, it suggests that key concepts in our language need to be translated afresh.

Empires of Difference or of Uniformity?

There has been a strong tendency for Australian scholars to deny the centrality of Western political thought to the experience of colonization in Australia.³⁸ Australia, it has often been argued, was settled at a time when discourses of

natural law that had been used to justify colonization in America and elsewhere were in decline. Australia's colonization by contrast was overshadowed by a less scholastic, more technocratic, and even 'non-ideological' commitment to the maximization of utility.³⁹ Perhaps partly as a result of this, relatively few Australian scholars have joined the debate, hotly contested in other countries, over the relationship between the traditions of Western political thought and the experience of empire and imperial administration.⁴⁰ Much of this debate has been shaped by a concern that also figures in this book, namely, how the representation of difference in Western European political thought, and especially in liberal thought, provided strategies for the extension of imperial government.⁴¹

The themes of 'recognition' and 'difference' in the development of Western thought have been prominent in contemporary political theoretical scholarship. This is due largely to the compelling work of feminist theorists such as Iris Marion Young, who have argued that modern Western notions of universalizable morality, impartial reason and autonomy deny the 'particularity of situations', reducing real, lived and affective human differences to formal rules of conduct.⁴² In championing a more inclusive 'politics of difference', these thinkers took aim at more 'conventional' normative defences of liberalism, typically centred on the priority of an assemblage of universalizable principles regulating social and political institutions including equality before the law, individual rights and the limitation of state power.⁴³ Throughout the 1990s, however, a variety of liberal thinkers retreated from this kind of universalism.⁴⁴ Broadly speaking, there have been two kinds of avowedly liberal response to the 'politics of difference' theorists. Both responses accept the empirical claim that difference and diversity are inescapable features of Western societies. The responses differ on the political and theoretical implications of this admission.

One response envisages a 'liberal neutrality' premised on the acceptance of cultural diversity within an overarching system of laws that are neutral towards particular group identities, and protect the rights of the individual. On this view, cultural groups are conceived as loose 'associations' in which membership, like the membership of a football club or a union, is represented as a matter of choice, freely undertaken and fully revocable at will.⁴⁵ The second 'cultural' liberal response to the 'politics of difference' view has been most consistently articulated by Will Kymlicka. Kymlicka argues that the recognition of group and cultural diversity have always been central to the liberal tradition. By means of the concept of a 'societal culture', Kymlicka attempts to ground the liberal aspiration to 'individual freedom' within the communal ties of common language, shared values and institutions. The emergence of 'societal cultures' is linked to modernization and the creation of territorially based national identities with standardized educational, political and economic institutions.⁴⁶ Kymlicka also claims that the acceptance of cultural diversity is intimately associated with the

liberal emphasis on equality. Significantly, Kymlicka suggests that a commitment to liberal equality requires addressing historic sources of disadvantage, exemplified by the failure of former settler-colonial states to honour treaty rights accorded to Indigenous peoples in Canada and New Zealand. Kymlicka's liberalism rests on the conviction that while liberalism historically has tended to ignore the rights and the collective identities of cultural minorities, its future now hinges on the recognition of diversity and the forging of common identities.⁴⁷

Along with a great many liberal theorists, however, Kymlicka has very little to say about the implication of liberalism in imperial projects. Despite some oblique references to modernization and the history of colonization, Kymlicka pays scant regard to the implication of liberal political thought in the imperial administration of peoples regarded as 'culturally' and 'socially' (not to mention politically and economically) 'different'.⁴⁸ What Kymlicka does say implies that the ultimate failure of British liberal-imperial administration of the diverse peoples and cultures within the Empire led to liberalism's 'benign neglect' of cultural diversity in the wake of decolonization,

... liberals who went to administer or study British colonies found that the liberalism they learned in England simply did not address some of the issues of cultural diversity they faced ... There must have been generations of English thinkers who learned the essentials of liberal theory at universities in England, and who went overseas with the hope of transplanting those principles, but who were then faced with a set of issues regarding minority rights that they were unprepared to deal with ... With the decline of the Empire, however, liberals stopped thinking about these issues, and little of this experience was fed back into British liberal theory.⁴⁹

The Empire of Political Thought aims to demonstrate that this kind of account pays too little regard to the ways in which the language of Western political thought was interwoven with the experience of empire.

Historians of political thought have been more willing to address the connection between political thought and the experience of empire. Nonetheless, doubt persists over whether Western political thought was ever able to accommodate 'recognition' of 'difference'. Anthony Pagden, for example, drew attention to the conceptual limitations in early modern European discourse that militated against any genuine 'recognition of *difference*' in the New World.⁵⁰ More recently, Carey has argued that Western philosophers such as John Locke helped to articulate theories of civilization in which human diversity merely represented various stages in the universal historical progress towards ever greater refinement and sophistication.⁵¹ James Tully's *Strange Multiplicity* articulates a powerful critique of this provisional recognition of difference. Tully's explicit targets are the assumptions inherent in what he terms 'modern constitutionalism', and the three main languages in which it has been articulated: liberalism, nationalism

and communitarianism.⁵² Tully's critique of 'modern constitutionalism' revolves around its implication in the project of colonization, and specifically in ongoing efforts in Canada to address and redress the legacies of British colonialism. In taking this approach, Tully contends that liberal constitutionalism was able to 'recognize' the equality of independent, self-governing nation states and the equality of individual citizens' in Europe and later in white settler societies (such as Canada), while systematically denying recognition to the different cultural identities of Indigenous peoples.⁵³

Invoking the image and the implicit message of Bill Reid's mysterious sculpture of Indigenous Haida motifs, known as *The Spirit of Haida Gwaii*, Tully powerfully argues that overcoming the entrenched injustices of Canada's imperial (and post-imperial) past requires a genuine (and mutual) constitutional recognition of Indigenous cultural identities.⁵⁴ Tully's phraseology here is significant:

Approaching *The Spirit of Haida Gwaii* in the right spirit does not consist in recognising it as something already familiar to us and in terms drawn from our own traditions and forms of thought. This imperial attitude is to be abjured. Rather, recognition involves acknowledging it in its own terms and traditions, as it wants to be and as it speaks to us.⁵⁵

Here Tully implies that there are at least two political senses of the word 'recognition', each of which must be distinguished, but which in modern constitutional language are often conflated. The first could be called 'recognition as familiarity', and Tully associates this with an 'imperial attitude'; the second, 'recognition as acceptance'. Recognition as familiarity is based on the common practice by which the apparently different is rendered familiar by translating it into the experience and language of the observer. In this kind of recognition, the new or different is acknowledged in so far as it conforms to what the observer regards as familiar to his or her own perspective. The more challenging 'recognition as acceptance', however, implies that differences are accepted on their own terms, and are not evaluated and acknowledged in terms of their familiarity with the observer's perspective. These two kinds of recognition play a vital part in Tully's argument, for his claim is that the cultural identities of Canada's Indigenous or First Nations peoples have long been subjected to the imperial recognition of familiarity, with disastrous results.

Part of the problem is that recent efforts of Indigenous people to win constitutional recognition (as acceptance) have been evaluated in a language of recognition as familiarity, that is, in terms of their status as 'sovereign' 'nations' seeking 'self-determination'.⁵⁶ In other words, the cultural identities of First Nations peoples have been 'recognized' only in so far as they have been deemed 'familiar', and the standard of familiarity is derived from the framework of con-

cepts and categories of Western political thought. This is what Tully means by speaking of the 'empire of uniformity'. The empire of uniformity is a rationalizing attitude that subjects and evaluates Indigenous cultural identity to a single standard of recognition. The empire of uniformity is an attitude hostile to cultural diversity, and is not limited simply to the era of imperial rule. Rather the empire of uniformity is an attitude that underlies and informs the languages of modern constitutionalism, and therefore shapes the attitude to Indigenous peoples adopted not only by the functionaries of empire, but by their post-imperial, liberal-democratic successors.

The chief problem that a contemporary constitutionalism must overcome, Tully contends, is the persistence of the 'empire of uniformity'. Helliwell and Hindess acknowledge Tully's success in highlighting the sources from which his more inclusive contemporary constitutionalism may be developed.⁵⁷ They have argued in contrast, however, that presenting the problem in terms of the empire of uniformity masks the ways in which imperial administration often did 'acknowledge cultural and other kinds of difference'. The problem, as Helliwell and Hindess see it, is not one of an imperial indifference to difference, but 'rather, how liberal constitutionalism *treats* such difference'. In most empires, for example, Indigenous peoples were not governed as 'citizens' but as some kind of 'subject' population, 'and this meant allowing and even encouraging cultural and religious difference between metropole and colony'.⁵⁸ This approach to the issue of difference emphasizes the need, explored in this book, to see the dual-sidedness of the language of Western political thought.⁵⁹

At some 'moments' this language could support claims for an 'empire of uniformity' as in Lord Durham's call in 1835 for the Quebecois, whom he referred to as an inferior 'race', to be made to conform to the 'national character' of 'the British Empire', with 'English laws and language' and 'a decidedly English legislature'.⁶⁰ At other 'moments', the language of Western thought could sustain claims for an 'empire of difference'. This kind of view was invoked, for example, by Edmund Burke when he spoke of the '... extensive tribes, suffering nations, [and] infinite descriptions of men, different in language, in manners, and in rites ...' who were the victims of Warren Hastings's corrupt government of India, patiently awaiting a reformed and civilized British rule.⁶¹ What I have called 'the empire of political thought' is intended to encompass these two moments in the deployment of Western political thought. My approach is to focus on the ways in which Indigenous Australian 'differences' could be 'recognized' and were assimilated within the Eurocentric language of political thought and policy formulation. The concern of this book will be to highlight the ways in which Indigenous identity was constructed not only as 'different' in a variety of ways, but also as 'inferior' or 'defective', requiring 'civilization', 'cultivation' or 'domestication'.⁶²

As Tully and others have suggested, any discussion of empire and political thought in Britain and its former settler societies will require confronting the problem of the relationship between imperialism and liberal political thought.⁶³ By the later nineteenth century, liberalism became the dominant discourse of British politics and political argument, and variants of liberal political thought remained dominant in her former settler dominions. Bhikhu Parekh has analysed the 'universalist' pretensions (and strident Eurocentrism) of nineteenth-century liberalism, which acknowledged diversity but 'defined its nature and permissible range in narrow terms', effectively ruling out 'several forms of diversity' including 'traditional and customary ways of life.'⁶⁴ While correctly disdaining any simplistic characterization of liberalism as an 'ideological justification of colonialism', Uday Singh Mehta goes much further in arguing that through the study of the writings of John Stuart Mill and others on India 'one gets a vivid sense of thought that has found a *project*.'⁶⁵ Mehta speaks of the English liberal perception of, and at times confusion over, what James Mill called the 'exceeding difference' of India.⁶⁶ Nonetheless, Mehta also contends that the liberal 'imperial gaze' is 'never really surprised by the stranger', whose difference is 'recognized as ... familiar' by being reduced to the category of the child or deviant.⁶⁷

More recently, Sankar Muthu and Jennifer Pitts have each argued for a more benign interpretation of liberal attitudes to empire. For Muthu, the origins of liberalism lie in the European Enlightenment (c. 1650–1800), which was itself characterized by a keen interest in and acceptance of human cultural and political diversity. Indeed, Muthu claims that, 'In eighteenth-century debates about human diversity, no single category, classificatory scheme or set of explanations of cultural difference was hegemonic in the manner that racial typologies of non-European peoples ...' came to dominate nineteenth-century '... anthropological and political thought.'⁶⁸ Pitts similarly argues that the great eighteenth-century thinkers who have been considered proto-liberals – Adam Smith, Edmund Burke and Jeremy Bentham – were all largely hostile to empire, 'tolerant' of and 'broad-minded' in their attitude towards non-European peoples.⁶⁹ Only in the nineteenth century did liberal theorists such as James and John Stuart Mill and Alexis de Tocqueville adopt a more consistently pro-imperialist position, dismissive of non-European difference as 'defect'.⁷⁰

This transition has been explained by the legal scholar Paul McHugh in terms of the colonial application of legal regimes premised in the eighteenth century on the concern to secure colonial stability by placating Indigenous hostility or winning Indigenous alliance. In the more stable imperial system of the nineteenth century, however, colonial legal regimes focused on access to and control of land over which colonial sovereignty was asserted. McHugh used Tully's concept of an 'empire of uniformity' to describe how this 'overweening' pretension reduced former 'allies' to 'subjects', 'transform[ing] aboriginal society through

de-tribalization and reconstruction of aboriginal being into a version of the white, enfranchised, and self-regarding individual.⁷¹ The 'unilateral' assumption of sovereignty implicit in the empire of uniformity is contrasted with eighteenth-century colonial practice (especially in North America), where 'treaty-relations' between Indigenous 'nations' and the colonies settled jurisdiction 'bilaterally'.⁷² By contrast, Pagden argues that eighteenth-century European empires were based on claims to indivisible sovereignty asserted by conquest in which an internal sharing of sovereign power was not possible.⁷³ Later nineteenth-century empires, however, recognized the inevitability of eventual colonial self-government, and even incorporated a degree of 'indirect rule' of Indigenous populations through their own institutions. Paradoxically, however, this limited recognition of settler-colonial and Indigenous sovereignty aimed – under the rubric of civilization – to create a new standard of uniformity in which all self-governing peoples organized themselves after the European fashion in nation states.

From the perspective of political thought, however, the recognition of difference and the aspiration to uniformity appear as twin poles in a recurrent tension. As one commentator has described it, Western thought has always incorporated the will to 'demarcate the world of civil (urban) civic humanity from the barbarians, provincials, *pagani*, and outsiders' while also aiming at their ultimate 'inclusion'.⁷⁴ Grasping the nature of the connection between political thought and empire requires an effort. Liberal imperialism often incorporated a 'recognition' of Indigenous differences in negative terms as 'primitiveness' or 'backwardness', in contrast to the progressive and modern features of liberalism.⁷⁵ Just as often, however, liberal imperialism rested on the *construction* and governmental manipulation of cultural, social and political differences.⁷⁶ *The Empire of Political Thought* will not attempt a comprehensive historiographic study of the practices and policies of Indigenous administration in Australia.⁷⁷ Rather, the book will explore the ways in which European perceptions of Indigenous peoples were couched within the language of political thought, the key terms of which framed the 'problems' they were thought to present to colonial government.

The book will begin with a discussion (Chapter 1) of the concept of civilization and the related term 'savagery' in European and British political thought in the seventeenth and eighteenth centuries. The representation of Indigenous government derived from this literature, much of it focused on the North American imperial context, will be related (in Chapter 2) to later eighteenth-century theories of civilization, and to colonial discourse on trade or traffic in North America and the Pacific. The aim here is not to show that European observers applied a single or uniform standard of civilization, but that they thought in terms of a gradation between more or less civilized peoples on the basis of perceptions of the relationship between their economic, social, political and moral condition.

Attention will then shift (in chapters 3 and 4) to European efforts to construe their colonization of Australia as peaceful by considering the vexed issue of the colonial legal status of Indigenous Australians. Subsequent chapters (5 and 6) will relate how the development of concepts of 'savagery and civilization' in Australia and elsewhere in the nineteenth century were related to changing perceptions of Indigenous social structure and the development of colonial liberalism. Stuart Macintyre has argued that 'Aborigines' were 'the absent centre of colonial liberalism' in Australia, a presence glided over in silence, original occupiers whose 'peaceful' dispossession provided the blank slate for colonial projects of improvement and development.⁷⁸ I will conclude by arguing that the discursive construction of Aboriginal identity was not an 'absent centre' but a very real and present centre of Australian colonial discourse down to the present day.

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