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In 1943, the eminent Jewish jurist Raphael Lemkin minted a new word: genocide. The following year, Lemkin defined genocide as any attempt to annihilate, physically or culturally, an ethnic, national, religious or political group, or, as he put it, ‘the destruction of a nation or of an ethnic group’, including by the imposition of ‘measures for weakening or destroying political, social, and cultural elements in national groups’.¹ Three years later, negotiations between national representatives in the United Nations yielded a less expansive definition: that of the 1948 United Nations Convention on the Prevention and Punishment of the Crime of Genocide. This international legal treaty, which entered into force in 1951, defines genocide as ‘acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such’, including:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

The Genocide Convention provides an internationally recognised, though restricted, rubric for evaluating possible instances of genocide. First, perpetrators must evince ‘intent to destroy’ a ‘national, ethnical, racial or religious group, as such’. Second, they must commit at least one of the five specified ‘acts’ of genocide against one of those four

¹ R. Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (Washington, DC: Carnegie Endowment for International Peace, 1944), pp. xi–xii, and ch. 9, e.g. pp. 79, 92. Lemkin’s Preface was dated 15 November 1943.

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'protected' groups. In addition, the Genocide Convention criminalises the following acts:

- (a) Genocide;
- (b) Conspiracy to commit genocide;
- (c) Direct and public incitement to commit genocide;
- (d) Attempt to commit genocide;
- (e) Complicity in genocide.

The UN Genocide Convention also specifies that 'persons committing genocide or any of the other acts enumerated . . . shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals'. This is important because state or government employees may not be the sole perpetrators of genocide. For instance, 'private individuals' may include posses assembled informally. The Genocide Convention also stipulates that 'genocide, whether committed in time of peace or in time of war, is a crime under international law'.² Finally, the Convention does not mention or require any specific motive for committing genocide. If the requisite act is deliberate, and the group's partial or total destruction is a consciously desired outcome, whatever motive lies behind that intention is irrelevant.

The Genocide Convention does not allow for the retroactive prosecution of crimes committed before 1951, but it does provide historians with a useful analytical tool: a consistent definitional framework for evaluating the past and for comparing similar (and dissimilar) events across both time and space. Lemkin asserted that 'genocide has always existed in history', and he wrote two manuscripts addressing instances of genocide ranging from 'Antiquity' to 'Modern Times'.³ 'Genocide' is a twentieth-century term, but it describes an ancient phenomenon and can be used to analyse the past, in much the same way that historians routinely use other neologisms to understand historical events. Indeed, Lemkin planned chapters entitled 'Genocide against American Indians' and 'The Indians in North America (in part)', as well as chapters on 'Tasmania', 'The Germans in Africa' and 'Hereros'. However, he died before he could complete any of these projects, including his planned chapters on Ireland, Korea, 'Belgian Congo' and 'Armenians'.⁴ All of these

2 The United Nations, Convention on the Prevention and Punishment of the Crime of Genocide. Adopted by the General Assembly of the United Nations on 9 December 1948, Treaty Series, vol. 78, no. 1021, 278, 280.

3 R. Lemkin, *Lemkin on Genocide*, ed. S. L. Jacobs (Lanham, MD: Lexington Books, 2012), p. 3.

4 For 'Genocide against American Indians' and 'The Indians in North America (in part)', see: M. McDonnell and A. Dirk Moses, 'Raphael Lemkin as historian of genocide in the

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topics, along with others from the early modern era, are discussed in this volume, using the United Nations Genocide Convention as an analytical rubric.

The UN Genocide Convention (UNGC) is a widely accepted international legal treaty reinforced by a growing body of case law. On 9 December 1948, the United Nations General Assembly adopted the Genocide Convention and its definition ‘unanimously and without abstentions’.⁵ It remains the only authoritative international legal definition. Unlike the at least twenty-two alternative definitions proposed since 1959, it has judicial power.⁶ As many as 152 nations are now parties to the UN Genocide Convention.⁷ The core of the Convention is also part of the International Criminal Court’s Rome Statute, which entered into force in 2002.⁸ Moreover, the Convention is supported and further defined by an expanding body of international case law. Between 1998 and 2017, the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) convicted sixty people of crimes defined by the Genocide Convention.⁹ In 2018, the UN-sponsored hybrid (international–national) tribunal, the Extraordinary Chambers in the Courts of Cambodia, convicted two former leading members of the Pol Pot regime on three counts of genocide. Nuon Chea, Pol Pot’s deputy, was found guilty of the genocides of Cambodia’s Muslim Cham and ethnic Vietnamese minorities, and Khieu Samphan, head of state of the Pol Pot regime, was also convicted of committing genocide against the ethnic Vietnamese. His conviction was particularly significant as Samphan is the world’s first head of state to be convicted of genocide by an international court.¹⁰

Americas’, *Journal of Genocide Research* 7 (December 2005), 502. For ‘Tasmania’, see Raphael Lemkin, ‘Tasmania’, ed., and with commentary, by Ann Curthoys, *Patterns of Prejudice* 39:2 (June 2005), 170–96. For ‘The Germans in Africa’, see Lemkin, *Lemkin on Genocide*, pp. 189–222. This included sections on ‘Hottentots’ (pp. 204–5) and ‘Brutalities in South West Africa’ (pp. 210–11). For ‘Hereros’ and the other topics Lemkin planned to cover, see *ibid.*, pp. 267–8, 17–19.

5 L. J. LeBlanc, *The United States and the Genocide Convention* (Durham, NC: Duke University Press, 1991), p. 1.

6 For twenty-two alternative definitions, see: A. Jones, *Genocide: A Comprehensive Introduction*, 3rd ed. (New York: Routledge, 2017), pp. 23–7.

7 https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-1&chapter=4&clang=_en.

8 International Criminal Court, *Rome Statute of the International Criminal Court* (The Hague: International Criminal Court, 2011), p. 3.

9 www.icty.org/en/cases; <http://www.unmict.org/en/cases>.

10 Extraordinary Chambers in the Courts of Cambodia, Trial Chamber, *Summary of Judgement, Case 002/02*, 16 November 2018, www.eccc.gov.kh/en/document/public-affair/summary-judgement-case-00202. The full judgment was released on 23 March 2019, www.eccc.gov.kh/en/document/court/case-00202-judgement. See, *esp.*, pp. 1600–1782, 2111–16, 2134–6, 2157–60, 2164–5.

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Rulings in these courts have clarified crucial elements of the Genocide Convention definition, including what is known as ‘specific intent’: the intent to destroy a group ‘as such’. In its 1998 *Akayesu* decision – the first conviction rendered by an international court using the Genocide Convention – the ICTR declared that specific intent, or *dolus specialis*, is a ‘constitutive element’ of genocide that may be deduced from the ‘general context of the perpetration’, the ‘scale of atrocities committed’ and ‘the fact of deliberately and systematically targeting victims on account of their membership . . . while excluding the members of other groups’. Indeed, the ICTR ruled Jean-Paul Akayesu guilty of genocide and ‘culpable because he knew or should have known that the act committed would destroy, in whole or in part, the group’.¹¹ The 2016 ICTY summary judgment for Radovan Karadžić added: ‘intent may . . . be inferred from’ facts and circumstances including, but not limited to, ‘the general context, the scale of atrocities, the systematic targeting of victims on account of their membership in a particular group, the repetition of destructive and discriminatory acts, or the existence of a plan or policy’. In addition, ‘Display of intent through public speeches or in meetings may also support an inference as to the requisite specific intent.’¹² Still, that kind of ‘smoking gun’ documentary evidence is far from the only possible proof of specific intent to commit genocide.

Case law has also addressed the question of scope, originally defined in the Genocide Convention as the intentional destruction of a ‘protected’ group ‘in whole or in part’. The seminal 1998 *Akayesu* decision determined that, ‘Contrary to popular belief, the crime of genocide does not imply the actual extermination of [a] group in its entirety, but is understood as such once any one of the acts mentioned in Article 2 [a–e] . . . is committed.’¹³ In its 2001 *Sikirica* decision, the ICTY ruled that ‘in whole or in part’ specifically ‘calls for evidence of an intention to destroy a reasonably substantial number relative to the total population of the group’.¹⁴ Three years later, the ICTY’s *Krstić* judgment added: ‘the part must be a substantial part of that group’, while ‘the part targeted must be significant enough to have an impact on the group as a whole’.¹⁵

11 International Criminal Tribunal for Rwanda, ‘Judgement’, in *The Prosecutor v. Jean-Paul Akayesu*, 2 September 1998, pp. 129, 133.

12 International Criminal Tribunal for the Former Yugoslavia, ‘Public redacted version of judgment’, in *Prosecutor v. Radovan Karadžić*, 24 March 2016, pp. 208–9.

13 International Criminal Tribunal for Rwanda, ‘Judgement’ in *The Prosecutor v. Jean-Paul Akayesu*, 2 September 1998, p. 129.

14 International Criminal Tribunal for the Former Yugoslavia, ‘Judgement on Defense Motions to Acquit’, in *Prosecutor v. Duško Sikirica, Damir Došen, and Dragan Kolundžija*, 3 September 2001, pp. 28, 29.

15 International Criminal Tribunal for the Former Yugoslavia, ‘Judgment’, in *Prosecutor v. Radislav Krstić*, 19 April 2004, pp. 2–3.

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International courts have also clarified the meaning of three basic genocidal acts, beyond 'killing', listed in Article II of the Convention. In its 1998 *Furundžija* judgment, the ICTY indirectly addressed Article II(b), 'Causing serious bodily or mental harm to members of the group', specifying that 'Rape may also amount to . . . an act of genocide, if the requisite elements are met, and may be prosecuted accordingly.'¹⁶ In 2008, ICTR justices determined that "The quintessential examples of serious bodily harm are torture, rape, and non-fatal physical violence that causes disfigurement or serious injury to the external or internal organs', while 'serious mental harm includes "more than minor or temporary impairment of mental faculties such as the infliction of strong fear or terror, intimidation or threat"''.¹⁷

International courts have also further defined Article II(c), the genocidal act of 'Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part'. The 1998 *Akayesu* ruling described this act as including 'subjecting a group of people to a subsistence diet, systematic expulsion from homes and the reduction of essential medical services below minimum requirement'.¹⁸ The 2012 ICTY *Zdravko Tolimir* judgment added that 'subjecting the group to a subsistence diet; failing to provide adequate medical care; systematically expelling members of the group from their homes; and generally creating circumstances that would lead to a slow death such as the lack of proper food, water, shelter, clothing, sanitation, or subjecting members of the group to excessive work or physical exertion' are acts of genocide when committed with intent to destroy the group.¹⁹ In addition, international courts have expanded the legal meaning of Article II(d), 'Imposing measures intended to prevent births within the group'. The *Akayesu* ruling held that 'sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages' also violate the Genocide Convention.²⁰

Finally, during the 1948 debates about the contents of the UNGC, the Venezuelan delegate had argued that 'the forced transfer of children to a group where they would be given an education different from that of

16 International Criminal Tribunal for the Former Yugoslavia, 'Judgment', in *Prosecutor v. Anto Furundžija*, 10 December 1998, pp. 67–8.

17 International Criminal Tribunal for Rwanda, Appeals 'Judgement', in *The Prosecutor v. Athanase Seromba*, 12 March 2008, p. 18.

18 International Criminal Tribunal for Rwanda, 'Judgment', in *The Prosecutor v. Jean-Paul Akayesu*, 2 September 1998, para. 506.

19 International Criminal Tribunal for the Former Yugoslavia, 'Judgement', in *Prosecutor v. Zdravko Tolimir*, 12 December 2012, p. 327.

20 International Criminal Tribunal for Rwanda, 'Judgement', in *The Prosecutor v. Jean-Paul Akayesu*, 2 September 1998, para. 507.

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their own group, and would have new customs, a new religion and probably a new language, was in practice tantamount to the destruction of their group, whose future depended on that generation of children'.²¹ This view was expressed in Article 11(e) of the Convention, which defines, as an 'act' of genocide, 'Forcibly transferring children of the group to another group'.

Although there have not been any international criminal tribunal convictions for 'Forcibly transferring children of the group to another group', one important domestic commission finding, on the part of an Australian national inquiry, suggests a legal interpretation of the definition of this act. According to the 1997 National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, 'The policy of forcible removal of children from Indigenous Australians to other groups for the purpose of raising them separately from and ignorant of their culture and people could properly be labelled "genocidal" in breach of binding international law.'²² Future judicial rulings may add to the case law defining this genocidal crime.

Settler Colonialism

European colonisation has stretched around the world for more than five centuries, disrupting or destroying millions of Indigenous people's lives. Yet only in the last few decades have some colonial histories, especially those of settler colonies, begun to be understood as genocidal. This volume reflects that historiographical shift. Sixteen of the following chapters identify and document genocides committed by colonists and their leaders in Ireland, North America, Australia and Africa. However, this volume also includes two cases of mass violence perpetrated by members of Indigenous groups, in North America (Ned Blackhawk's Chapter 10 on the Iroquois destruction of Wendake) and Africa (Michael Mahoney's Chapter 14 on the Zulu Kingdom's genocide of neighbouring groups). In addition, this volume also assesses cases that did not take place in a settler colonial context, such as Dean Pavlakis' Chapter 24 on the Congo, as well as four cases on the Eurasian continent, in Korea, Central Asia, Russia and France.

²¹ Pérez Perozo, in Sixth Committee of the General Assembly, 'Eighty-Third Meeting', 25 October 1948, 195.

²² Human Rights and Equal Opportunity Commission, National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families, *Bringing Them Home: National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families* (Sydney: Human Rights and Equal Opportunity Commission, 1997), p. 275.

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Genocide, it had long been assumed, is not merely a twentieth-century term, but a twentieth-century crime – an invention of modern warfare and industrial capability, motivated by ‘scientific’ racial theories and political ideologies that presumably neither pre-existed nor informed the capitalist and mercantile aspirations that had earlier driven Europeans to explore and conquer ‘new’ oceans and lands, and to colonise ‘new’ territories. That drive was considered distinct from what propelled earlier, more conventional military expansions, such as Japan’s genocidal invasions of Korea in the 1590s and the Chinese empire’s extermination of the Zünghars of Central Asia in the 1750s, examined in Nam-lin Hur’s and David Brophy’s Chapters 5 and 12, respectively, in this volume. Asian as well as European powers had long engaged in devastatingly brutal conquests. And while Indigenous societies were increasingly their victims, on occasion even Indigenous leaders could also commit genocide.

Yet at both ends of the Eurasian landmass, from Ireland to the Banda Archipelago (as Frank Dhont shows in Chapter 8), scholars have found that twentieth-century genocide has deep colonial antecedents. The European-inflicted genocides of traditional landowners that began in the late-fifteenth-century Americas were rationalised by an evolving sense of religious righteousness, commercial drive, cultural superiority and racial supremacy that persisted into the modern era. The wealth and power that colonisation generated for Europeans helped to define – for many of them – their sense of moral and cultural dominance. For those whom colonisation dispossessed, the reverse was true. Their loss and demographic decline came to define their inferiority and to justify their dispossession in the minds of many Europeans. Colonisation realised a supposedly natural European ascendancy.

It is no coincidence that, as European colonisation expanded, so its ideological rationalisation became most sophisticated and intense. Nineteenth-century British imperial expansion – and the colonisation of Australia, in particular – was pivotal to the development of evolutionary anthropology. According to this view, Indigenous Australians appeared the living manifestation of the recently discovered European Stone Age – the most ‘primitive’ phase of human development.²³ That ‘prehistoric’ peoples should ‘die out’ when encountered by more ‘advanced’ societies seemed logical to many colonisers. Some presented the Tasmanian Aborigines’

23 T. Griffiths, *Hunters and Collectors: The Antiquarian Imagination in Australia* (Cambridge and New York: Cambridge University Press, 1996), pp. 9–10.

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(Palawa) supposed ‘extinction’ in 1876 as ‘a key instance’ of the predicted demise of all colonised ‘primitives’ the world over, signifying for Europeans their seemingly unparalleled global dominance.²⁴ Even a growing British humanitarianism appeared to demonstrate the interlocutors’ sense of superiority, both within European society and over the ‘primitives’ they sought to ‘protect’.²⁵

Nineteenth-century evolutionism presaged (though it did not determine) a twentieth-century racial science that culminated in – and hopefully ended with – the Holocaust. The manifest horrors that came to international light after World War Two inspired a new generation of scientists to seek out human connections above divisions. The subsequent discoveries in human genetics and archaeological dating have documented humanity’s singular biology and history of migration and population growth.²⁶

Modern imperial history was simultaneously revised. By the 1960s, histories of imperial ‘discovery’ were reframed as histories of fatal impact – fatal to species of both plants and animals, as well as to human societies.²⁷ The 500th anniversary of Columbus’ landing inspired sweeping histories of the vast numbers of Indigenous deaths since 1492.²⁸ While these histories offered an important new perspective, the sense of contrition that inspired them, especially at a popular level, maintained the problematic focus upon overwhelming European power, overlooking examples of Indigenous resilience, resistance and survival.

Meanwhile, an emergent post-colonial criticism recognised the deep Eurocentrism of modern historiography and identity, but did not extend to understanding colonial/Indigenous relations as genocidal. The founding Indigenous post-colonial theorists were from former colonies such as India that had not experienced massive European settlement and that had historically relied upon subjugated labour, the elimination of which would have been counterproductive for India’s colonisers. It was when scholars examined the

24 P. Brantlinger, *Dark Vanishings: Discourse on the Extinction of Primitive Races, 1800–1930* (Ithaca: Cornell University Press, 2003), p. 124.

25 T. Lawson, *The Last Man: A British Genocide in Tasmania* (London, New York: I. B. Taurus, 2014), pp. 94–101.

26 Griffiths, *Hunters and Collectors*, pp. 86–7.

27 A. Moorehead, *The Fatal Impact: An Account of the Invasion of the South Pacific 1767–1840* (London: Hamish Hamilton, 1966); A. Crosby, *The Columbian Exchange: Biological and Cultural Consequences of 1492* (Westport: Greenwood Press, 1972).

28 D. E. Stannard, *American Holocaust: Columbus and the Conquest of the New World* (London and New York: Oxford University Press, 1992); M. Cocker, *Rivers of Blood, Rivers of Gold: Europe’s Conflict with Tribal Peoples* (London: Jonathan Cape, 1998); A. Crosby, *Germs, Seeds and Animals: Studies in Ecological History* (Armonk, NY: M. E. Sharpe, 1994).

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histories of other colonies where land, not labour, was the primary resource sought, that genocide became a central question. In the 1980s, historian Tony Barta turned his expertise in German history to the Australian context. Australian Indigenous peoples' well-being, sovereignty and culture depended upon a continuing connection to Country, the English-language term that many Indigenous Australians use for their close cultural and economic relationship to their land. However, in the Australian colonial context of extensive stock grazing rather than intensive cultivation, British capitalist growth relied upon an ongoing occupation and exploitation of Aboriginal land, which most often meant removing its owners rather than employing them on it. The primary relations between British colonists and Aborigines were not over labour but over land, Barta identified, and they were 'relations of genocide'.²⁹

Historian Patrick Wolfe followed with a similar observation: that in settler colonies, such as Australia and the Americas, the determinant 'articulation . . . between colonizer and native is . . . directly to the land'. The traditional owners are thus superfluous in the view of the new immigrants; indeed, partly because Indigenous people have their own use and need for the land and may resist dispossession, they are a hindrance. Just as settler colonies are 'premised on the elimination', that premise becomes their determinant feature: 'The colonizers come to stay', Wolfe concluded, '— invasion is a structure, not an event.'³⁰

Works by Australian historians like Barta and Wolfe on the genocidal logic of settler colonisation had a profound impact on the international historiography of settler colonialism, but this impact was incremental and contentious. Genocide has remained a threateningly technical and modern term to many historians. A key sticking point has been the required evidence of 'specific intent' or conscious desire to commit genocide, which it has been assumed must be both premeditated and documented in writing by state leaders. Barta wonders (in Chapter 2 of this volume) why historians of settler colonies fail to 'engage with the reality that *actions* and *relationships* and *interests* also declare intentions. The relations of genocide', Barta explains, 'are constructed *historically* by forces greater than documented plots to destroy a people.' There is much to be said for this important observation.

29 T. Barta, 'Relations of genocide: land and lives in the colonization of Australia' in *Genocide and the Modern Age: Etiology and Case Studies of Mass Death*, ed. M. Dobkowski and I. Wallimann (Westport: Greenwood Press, 1987), 237–53.

30 P. Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (London and New York: Cassell, 1999), p. 2.

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In some cases, at least, it may meet the requirements of ‘specific intent’, outlined above. This is not to say, however, that ‘smoking gun’ documentation of premeditation, even in writing and even by state officials, is always lacking.

This volume offers, besides other imperial expansionist cases such as those from early modern China and Japan, empirical evidence for Barta’s observation across five centuries of European settler colonial history. In Part 1, ‘Settler Colonialism’, three chapters collectively survey the colonial histories of the United States, Australia, New Zealand and Southern Africa from the sixteenth to the early twentieth centuries. These chapters bring the many differences between these colonies to light, but it is what connects them that determines their histories as genocidal: the goal of imposing a new *settler* society on Indigenous lands. Further, these chapters articulate how genocide has shaped the nationalist historiographies of settler colonies.

In his chapter on settler colonialism and United States historiography, Ned Blackhawk chooses four words to demonstrate the centrality of Indigenous erasure from nationalist histories: ‘We, Here, Power, Responsibility’. The words come from President Abraham Lincoln’s famous letter to Congress, written in defence of the Union in 1862: ‘We – even we here – hold the power, and bear the responsibility . . . We shall nobly save, or meanly lose, the last, best hope of earth.’ Lincoln’s words have come to capture ‘the essence . . . of the nation’ – of its virtue and hope. Yet they were written during a time not only of civil war, but also of Indigenous genocide. Many wars against Native peoples were waged during the Civil War, including part of the genocide of California Indians analysed by Benjamin Madley in Chapter 17 of this book. While the details and ongoing impact of these parallel wars have largely been forgotten by people in the 21st-century United States, the myth of an Indigenous ‘disappearance’ remains entrenched. Native American peoples did not ‘vanish’. Their adaptive endurance and surviving sovereignty in the face of genocide makes Native Americans, and indeed surviving colonised Indigenous communities everywhere, ‘central to understandings of the rise of the modern world and to the expansion of colonialism across it’.

Barta’s comparative view of settler colonialism in New Zealand and Australia offers an innovative study of the phenomenon in a period of ascendant British humanitarianism. The Select Committee on Aboriginal Tribes handed down its landmark Report to Britain’s parliament in 1837 after fifty years of colonisation in Australia. Colonial centres and outposts spanned that continent. Its Aboriginal populations were in massive decline. Colonisation, the Report acknowledged, had been disastrous for Aboriginal