

FORUM

REQUIREMENTS OF JUSTICE: LEGAL PERSPECTIVES ON RECONCILIATION

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FOREWORD

The object of *Forum* is to encourage considered debate on legal issues, which is for the most part impossible in the general media. It is hoped that a separate arena, such as *Forum*, devoted to the discussion of legal matters by the legal community, will focus attention on and promote better understanding of such issues within academic, professional, judicial and other circles. Perhaps unlike the Journal's other publications, *Forum* lends itself to topics which have legal dimensions but concern not only the legal community.

With reconciliation as its topic, this *Forum* follows thematically in the footsteps of past *Forum* publications on the Stolen Generation, Mandatory Sentencing and the *Wik* debates. The contributions were able to re-examine issues concerning reconciliation which have often been simplified in other print media. For instance, it was possible for Greg McIntyre to argue that while politicians and the media warned pastoralists that they might lose their land after the *Wik* decision, not one instance of this has occurred or can possibly occur.

This *Forum* plays a particularly important role by providing a platform for *legal* analysis to colour Australian debates about the meaning, content and process of reconciliation. This is not to say that the law does not already play a meaningful role in re-shaping these debates. While the Australian imagination is infused with various images and sounds of reconciliation, singer-songwriter Paul Kelly's and Kev Carmody's lyrics stand out, as they tell the story of Vincent Lingiari meeting Gough Whitlam, and go on to sing:

* Editor, General Issue Vol 22(2) and *Forum*.

But this is the story of something much more
How power and privilege cannot move a people
Who know where they stand and stand in the law.¹

And so, the law seems to be one crucial influence in determining and describing relationships within and between Indigenous and non-Indigenous communities and Australians.

This *Forum* begins with a piece that carefully considers reconciliation as manifested in the common law and ends with a piece emphasising the reality of disproportionate Aboriginal youth incarceration. In other words, and loosely speaking, the Forum seems to start with law and end with the social and political backdrop. It collects an array of voices which differ in opinion on the content of reconciliation, the significance or relative insignificance of law in this context and the authors' own positions or roles in the legal community and the reconciliation process. But, the pieces are linked by a common attempt to imagine what reconciliation is and what mechanisms might bring about it. For Garth Nettheim, for example, this involves an etymological study of the verb 'to reconcile' while, for Jeremy Webber, reconciliation is defined as a political process concerned with how Indigenous societies, as societies, are to relate to the broader Australian society. And so, I feel that the process of argument and counter-argument in *Forum* parallels the nation's grappling with these core issues about reconciliation and the way in which we imagine ourselves and our relations with others. I hope that *Forum* fulfils this role intelligently and meaningfully.

I am grateful to Professor Garth Nettheim for his advice from this project's inception. I would also like to thank Leonie Draper for her technical assistance and the members of the Editorial Board for their support.

1 Paul Kelly, *Don't Start Me Talking: Lyrics 1984-99*, Allen & Unwin (1999) p 108.