

Is the Emperor Wearing the Wrong Clothes?

Human Rights And Social Good In The Context Of Australian Secularity: Theological Perspectives

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Introduction

The thesis of this paper is that a theological perspective born out of belonging to Jesus' kingdom, which he told Pilate was not of this world, might help us in understanding something about human flourishing and sociality in Australia. Such a perspective may provide some distance to help us to see that Australia has its own particular version of secularity and consequently an approach to sociality that is not entirely sympathetic to modern notions of human rights as a way of approaching human flourishing in society. Other ways have been found to approach questions of fairness and human well being in Australia. As with human rights regimes those ways have not always been successful but in general the pattern has been more than notably defensible in the broad range of human societies. Failures clearly need to be addressed. The question is in what way? In this paper I argue that working with the grain of the national story makes more sense than cutting across it.

The horrors of Second World War very understandably created revulsion among many and fuelled an interest in human rights as a strategy for dealing with abuse and corruption in human sociality. Theologians have responded in various ways to this movement. Nicholas Wolterstorff from Yale has tried to read back into the Hebrew Scriptures and the New Testament such notions of human rights, but he runs into significant tracts of material pointing in a different direction. Roman Catholic theologians have used their long tradition of natural law to argue for a moral universe and human rights as part of that world created by God.

The difficulty is that Jesus seems consistently to have resisted a political path and to have pointed rather to a kingdom, which he said, was not of this world. This theme is littered all over the New Testament and Christian history and in the twentieth century found sharp expression in the early writing of the Swiss theologian Karl Barth. The theme will not go away and has pointed theologians to the importance of social connection in the life of faith and also to the formative significance of the story of the Christian community. Narrative and connection are central to Christian understanding. Even that relatively conservative body, The Anglican Church of Australia, has them written into the recitals of its constitution.

These two themes are also crucial in the wider society, not least in Australia. The narrative of its origins and formation shape the understanding of all discrete communities. The modern nation state is no exception. The Australian pattern can be highlighted by setting it alongside that of the United States of America.

The contrast between the origins of the US and Australia could not be more stark. The Declaration of Independence in 1776 began with universal claims about the nature of the human condition.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

It carried its claim to start a new nation on the basis of twenty eight complaints against George III concluding; ‘A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.’¹ These were actions taken by the independent settlers in nine colonies.

¹ Declaration of Independence, 4 July 1776, accessed 8 July 2009 from <http://www.ushistory.org/declaration/document/index.htm>

In 1788 a motley crew of convicts and military settled in what was essentially a jail in New South Wales. Free settlers did not arrive until 1793 and so in stages and by concessions from the British government, what began as a jail with its virtual Anglican establishment, acquired political and legal freedoms and protections. That particular long drawn out history has affected the character of Australian secularity and plurality and, not surprisingly, has left in its train very significant differences from what emerged in thunder and lightning in the United States of America.

During the last fifty years the role of religion in western societies has been revisited and is now being dramatically re-cast. The older secularisation thesis that, with the progress of the eighteenth century enlightenment, religion would fade away and have no role in public life is giving way to a more pluralist version of religion and public life. More than that both historians and sociologists now point to the different forms of secularity that the diverse narratives of modern societies have created. Just as study of the enlightenment has fractured the perception of its coherent generality and drawn attention to its significant local diversities, so also the varied character of secularity in different national stories is being identified.

That scholarly re-casting has focussed on Europe and the US, but Australia invites the same kind of investigation and re-examination. The influence of Enlightenment attitudes in Australia has been varied and by no means always anti religious. More significantly the Australian version of secularity has quite distinctive features that stand in some sharp contrast to the US experience. We can see this in our educational institutions which are said to be secular, but which have embedded in them notions of religious advancement. The University of Sydney retains to this day in its charter that it exists, amongst other things, for the advancement of religion and morality. The judicial interpretation of Section 116 of the Commonwealth constitution gives no basis for any idea of a separation of church and state, or rather institutional religion and the state.

Australia presents a form of secularity that has emerged out of a monopoly Anglican state into a plural democratic nation by a gradual process of change with its own developing pattern of social relations.

This narrative of Australia as an evolving society with commitments and social values is an important framework for any theologian approaching the issue of individual rights in this context. It reinforces the theologian's awareness of the contingent character of the human condition in the light of the kingdom of Jesus. Far from diminishing the theologian's concern with social life it underlines the enduring question of how the Christian is to be neighbour in this kind of society and thus to testify to the nature of the kingdom of God? Such a question is addressed not just to individuals within society but also to the institutions and frameworks that shape the lives of people in that society.

Any question of the appropriate form of protections and freedoms for individuals and groups in Australia needs to be considered in the light of its quite particular form of secularity and assumptions about social values. The notion of inalienable individual human rights that has so shaped that very differently structured society of the United States of America has not been a central or powerful force in shaping the structure of Australian society. Indeed, despite many practical commonalities, the two societies are founded upon significantly different assumptions at this point. Any question about the structures of human sociality in Australia must deal in the particulars of the existing arrangements. It would therefore make sense in the first instance to build on the existing narrative before resorting to novelty from elsewhere.

Human Rights and Christian Theologians

Speaking of social and political life in terms of human rights has only recently come into prominence, but like all similar traditions it looks to a long history of discourse as one of its powerful legitimating warrants in the present. Depending on how the

question is configured hints of some of the ideas attaching to rights can be traced back to antiquity, though these tend to refer to conceptions of office and duties.

Thomas Hobbes, writing out of the disorder and confusion of the Commonwealth period in seventeenth century England, asserted that the people were the source of authority in the body politic on the basis of a natural almost total right belonging to the individual which would be given up to the sovereign for the sake of peace and security. Forty years later John Locke set natural rights within the framework of a moral order deriving from a divine creator. In this respect Locke formulated his thought in relation to a sense of natural law, which also provided a framework for the reasonableness of Christianity.² A nest of theologians used a tradition of natural law in political discourse that favoured contract theory, and thus the rights of individuals, to limit notions of tyrannical government.³

Interest in rights did not slide effortlessly from the eighteenth into the twentieth century world. It rather vacated the public stage during the nineteenth century and in the twentieth rights language was subjected to a radical Marxist critique. But the Second World War changed all that. The Second World War involved mass suffering of non-combatant citizens and it was the arena for the ultimate horrors of the mass

² See for example John Locke and John C. Higgins-Biddle, *The Reasonableness of Christianity: As Delivered in the Scriptures* (Oxford: Clarendon Press, 1999). The book was first published in 1695

³ See for example Richard Hooker in *The Folger Library of the Works of Richard Hooker* (Cambridge: Harvard University Press, The Folger Library Edition of the Works of Richard Hooker, E. G. a. S. H. W, 1977-1995) and also Damien Grace, 'Natural Law in Hooker's *Laws of Ecclesiastical Polity*', *Journal of Religious History* 21.1 (1997), pp. 10-22. The issue had been important in relation to the Glorious Revolution of 1689 in whose defence Benjamin Hoadly, later bishop of Bangor, wrote with polemical force. A century later Hoadly's writing, particularly *The Original and Institution of Civil Government, Discuss'd* informed the legitimation of the American rebellion against the English crown and the establishment of the new republic. See for example Benjamin Hoadly and William Gibson, *The Original and Institution of Civil Government, Discuss'd* (New York, N.Y.: AMS Press, New, AMS Series in the Eighteenth Century, 2007) which includes an introduction setting out the influence of Hoadly's writing in America and the extensive biography William Gibson, *Enlightenment Prelate: Benjamin Hoadly, 1676-1761* (Cambridge: James Clarke & Co., 2004).

murder of Jewish people as well as the persecution of homosexuals, gypsies and some other minority groups. Haunting the post war world was not just the personal grief of loss but the frightening thought that civilisation could have brought forth such barbarism and violence. It is no wonder that a new world order was sought and it is no wonder that the perspective of the sufferers was crucial in the way that order was conceived.⁴ This meant that the individualism of the eighteenth century was enhanced to include a wider understanding of the application of rights. Although rights for groups and categories of people and the right of self determination for groups was incorporated into the universe of rights that belong in the human condition the rights language had special force in aftermath of the Second World War because it penetrated the borders of nation states to assert the rights of individuals. Even where a nation state appeared to have the trappings of legitimate processes rights could reach beyond the state to the individual. The example of Nazi Germany was a powerful example of just this problem of state legitimacy.

Christian philosophers and theologians responded in different ways to this movement. In a recent book the former Noah Porter Professor of Philosophical Theology at Yale, Nicholas Wolterstorff,⁵ returned to this theme and argued that human rights, far from being new, belonged in the foundational texts of the Hebrew Bible and the New Testament. ‘Not only inherent natural rights but inherent natural human rights were implicitly recognized in the moral vision of the writers of the Hebrew and Christian scriptures, as they were by the Church Fathers; in the writings of the canon lawyers of the twelfth century they were finally not only recognized but given explicit conceptualization.’⁶ General recognition of these rights was slow and halting until ‘quite surprisingly, it burst forth after the horrors of World War II in the UN

⁴ For a background to the role of pity in the formation of social connection see Jean-Jacques Rousseau and Maurice Cranston, *A Discourse on Inequality* (Harmondsworth: Penguin, 1984).

⁵ Nicholas Wolterstorff, *Justice : Rights and Wrongs* (Princeton ; Oxford: Princeton University Press, 2008). It is somewhat surprising that he finds this recognition at the end of World War II quite surprising.

⁶ Wolterstorff, *Justice* p.361

declaration.’⁷ He argues that justice is constituted of rights. ‘A society is just insofar as its members enjoy the goods to which they have a right. And I think of rights as ultimately grounded in what respect for the worth of persons and human beings requires.’⁸ For example, he says, the Biblical ‘prescription against murder is grounded not in God’s law but in the worth of the human being. All who bear God’s image possess, on that account, an inherent right not to be murdered.’⁹

Christians and Jesus’ Kingdom Which is Not Of This World

This history is fraught with interpretative ambiguities and Wolterstorff’s account is highly contentious. From the point of view of the kinds of warrants that apply in the Christian tradition the appeal to scripture is clearly crucial. His reading of the command not to murder illustrates the difficulties of interpreting “classic texts” such as scripture when the interest is in some historically subsequent question that is formulated in terms or categories that may not belong in the era of the text and may not share the same framework of tacit assumptions.¹⁰ His reference to the command not to murder also provides a way into another view of the theological account of the human condition.

The classic text for the command on murder is Exodus 20. The story is set in the context of the Israelites in the desert of Sinai three months after they had fled from

⁷ Wolterstorff, *Justice* p.361

⁸ Wolterstorff, *Justice* p. xii

⁹ Wolterstorff, *Justice* p.95

¹⁰ There is a long history of this challenge in text interpretation generally, see for example Conal Condren, *The Status and Appraisal of Classic Texts : An Essay on Political Theory, Its Inheritance, and on the History of Ideas* (Princeton, N.J.: Princeton University Press, 1985). On the specific question of the biblical texts see Ernst Troeltsch, *The Absoluteness of Christianity : And the History of the Religions* (London: SCM., 1972), Anthony C. Thiselton, *Two Horizons : New Testament Hermeneutics and Philosophical Description with Special Reference to Heidegger, Bultmann, Gadamer and Wittgenstein* (Exeter: Paternoster Press, 1980) and Anthony C. Thiselton, *New Horizons in Hermeneutics* HarperCollins, 1992).

Egypt. They camped at the foot of Mount Horeb and Moses went up the mountain to converse with God. He was given words to deliver to the Israelites:

Then Moses went up to God, and the LORD called to him from the mountain and said, "This is what you are to say to the house of Jacob and what you are to tell the people of Israel: 'You yourselves have seen what I did to Egypt, and how I carried you on eagles' wings and brought you to myself. Now if you obey me fully and keep my covenant, then out of all nations you will be my treasured possession. Although the whole earth is mine, you will be for me a kingdom of priests and a holy nation.' These are the words you are to speak to the Israelites." (Exodus 19.1-6)

The people accepted these words and after detailed preparation Moses again went up the mountain to God and came back to the Israelites with what we know as the Ten Commandments. These commandments were introduced with very specific words which refer back to the words from God on the previous day, 'I am the LORD your God, who brought you out of Egypt, out of the land of slavery.'

The whole story is framed in the style of an ancient near East suzerainty treaty where Israel is the vassal nation. The crucial theological issue is that obedience to the commandments is based on the deliverance of the Israelites from slavery in Egypt. This account of the giving of the commandments occurs also in Deuteronomy 5 in anticipation of the Israelites crossing into the promised land of Canaan. They were to keep the commandments because they were God's people. The ten commandments set out the character of the redeemed people of God, or rather that character to which they are now committed.¹¹ There is nothing here about image of God, even though that idea is found in the creation stories. There is no focus on the individual in any separated sense. The commandments, though referring to individual actions such as murder, are addressed to the people of Israel.

¹¹ Indirectly these commandments also point to the character God as that might be expressed in the human condition. Stanley Hauerwas and William H. Willimon, *The Truth About God: The Ten Commandments in Christian Life* (Nashville: Abingdon Press, 1999) and Scott Cowdell, *The Ten Commandments and Ethics Today* (Melbourne: Acorn, 2008).

It is these issues that have drawn theologians to a more sceptical or detached view of human rights. Rather than seeing human society as made up of individuals with inherent rights they see societies and individuals as existing under the providence of God and their moral obligations as arising out of the revelation of the character of God in Jesus Christ who is seen as the fulfilment of the Hebrew scriptures, now seen as an Old Testament. Moreover that revelation points to a final end, an eschatological vision of the kingdom of God. This orientation can be seen in the claim of Paul the apostle that the Philippian Christians to whom he was writing had their citizenship in heaven rather than in the Roman colonial city where they resided.¹²

This detached view of political life is vividly illustrated in an early Christian document describing the martyrdom of Polycarp, bishop of Smyrna. Polycarp was brought before the Roman Pro-Consul and told to swear by the genius of Caesar. He declined and was threatened with wild beasts and being burned alive, to which he responded “You threaten me with the fire that burns for a time, and is quickly quenched, for you do not know the fire which awaits the wicked in the judgement to come and in everlasting punishment.”¹³ Just as he is about to be burned at the stake Polycarp prays, “O Lord God Almighty, Father of thy beloved and blessed child, Jesus Christ, through whom we have received full knowledge of thee, the God of angels and powers, and of all creation, and of the whole family of the righteous who live before thee!”¹⁴ This is just one of a multitude of examples of the enduring power of Jesus’ statement, also to a political figure Pilate, that his kingdom is not of this world. Expressions of this central character of the gospel are littered all over the history of Christianity, even when the empirical church seems to ignore or forget them.

¹² Philippians 3.20

¹³ Kirsopp Lake Ed., *The Apostolic Fathers with an English Translation by Kirsopp Lake* (Cambridge: Harvard University Press, 1965) p. 327

¹⁴ Lake, p.331

Polycarp did not interpret this truth to mean that there were not moral obligations for Christians in the world of politics or of daily social life. On the contrary he told the Pro Consul that christians have been ‘taught to render honour, as is meet, if it hurts us not, to princes and authorities appointed by God.’¹⁵

This aspect of the Christian tradition has led some theologians to embrace a notion of divine inter penetration of the religious and the political and in that context to see a theological basis for affirming claims to rights. That argument takes a different route from the more inductive and philosophical route taken by Nicholas Wolterstorff. In this instance use is made of traditions of natural law. Thus those Christian traditions that see a key role in theology for natural law are found to assert the place of human rights as things given by God and thus to be supported and affirmed. This line of thought inevitably makes these rights universal because of their cosmic divine origin.

Wolterstorff writes out of a philosophical background and a reformed theological tradition, but human rights are also affirmed within a Roman Catholic tradition of theology. In addressing the United Nations General Assembly on the occasion of its fiftieth anniversary celebrations Pope John Paul II referred to the Universal Declaration of Human Rights as ‘one of the highest expressions of the human conscience of our time.’ He went on to relate rights to a universal conception of human nature and a universal moral law embedded in the world itself. Then calling on his own central European background he focused on the right of nations to exist. The universal quest for freedom he said

confirms that there are indeed universal human rights, rooted in the nature of the person, rights which reflect the objective and inviolable demands of a *universal moral law*. These are not abstract points; rather, these rights tell us something important about the actual life of every individual and of every social group. *They also remind us that we do not live in an irrational or meaningless world*. On the contrary, there is a *moral logic* which is built into

¹⁵ Lake p. 327

human life and which makes possible dialogue between individuals and peoples. If we want a *century of violent coercion* to be succeeded by a *century of persuasion*, we must find a way to discuss the human future intelligibly. The universal moral law written on the human heart is precisely that kind of "grammar" which is needed if the world is to engage this discussion of its future.

In this sense, it is a matter for serious concern that some people today deny the universality of human rights, just as they deny that there is a human nature shared by everyone. To be sure, there is no single model for organizing the politics and economics of human freedom; different cultures and different historical experiences give rise to different institutional forms of public life in a free and responsible society. But it is one thing to affirm a legitimate pluralism of "forms of freedom", and another to deny any universality or intelligibility to the nature of man or to the human experience. The latter makes the international politics of persuasion extremely difficult, if not impossible.¹⁶

This address not only reflects Pope John Paul II's philosophical background, it also neatly states a long tradition of Roman Catholic teaching on natural law applied to the modern assertion of human rights.¹⁷ There is a crucial connection here between the notion of a universal moral order, the creator as the one who has given that order, and the claim that rights are not simply individualistic. Rights play a part in the symphony of considerations that go to make up a just and moral humanity that is both individual and social. This framing of the matter overcomes the somewhat artificial antithesis in Wolterstorff between notions of society based on inherent human rights

¹⁶ Address Of His Holiness John Paul II, United Nations Headquarters (New York), Thursday, 5 October 1995. Accessed 2 July 2009 from http://www.vatican.va/holy_father/john_paul_ii/speeches/1995/october/documents/hf_jp-ii_spe_05101995_address-to-uno_en.html

¹⁷ Compare the formulation in the Vatican II document *Dignitatis humanae*, Declaration on Religious Liberty, chpt 1, Austin Flannery, *Vatican Council II : The Conciliar and Post Conciliar Documents* (Dublin: Dominican Publications, New rev. ed., Vatican Collection, 1992).

and one based on right order.¹⁸ It creates the basis for a real analogy (*analogia entis*) to operate between the creation and the creator, rather than an analogy based on and expressed in faith (*analogia fidei*). It concerns the crucial question, in what sense is Jesus' kingdom, which is not of this world, actually and really represented in some form in this world. Here John Paul II makes that connection in terms of moral values and draws the nation into that arena through a principle of self-determination. Not only is there real correlation of the divine, it is expressible in terms of values that can be embodied in institutions of sociality such as the nation.

Karl Barth, especially in his early volumes of the Church Dogmatics¹⁹ represents a polar alternative to this *analogia entis*. Whereas John Paul II's approach provides the basis for the essential immanence of God in the natural order Barth came to represent a quite different approach to the nature of the knowledge of God and in consequence the relation between Jesus' kingdom, which is not of this world, and the social and political life of the Christian. That question about the kingdom of Jesus to which his disciples belong goes back elementally to the crucial issue of how Jesus of Nazareth is the true and adequate revelation of God in the here and now. How is the distinction between God and humankind to be seriously sustained while yet holding to the reality of the humanity of Jesus Christ who is also the revelation of God.²⁰ Barth's response was to place the divine initiative in Jesus at the forefront of his approach. Thus true humanity is to be understood in terms of Jesus of Nazareth and others share his humanity. Such a divine initiative is an act of divine grace to which all and each are called to respond in faith.

¹⁸ See Wolsterstorff *Justice*, p.11

¹⁹ For Karl Barth's rejection of this *analogia entis* see Karl Barth, Geoffrey William Bromiley and Thomas F. Torrance, *Church Dogmatics* (Edinburgh: Clark, 1977), I/1:x, 'I regard the *analogia entis* as the invention of the antichrist, and think that because of it one cannot become Catholic.'

²⁰ For an account of Barth's recognition of this issue see S Hauerwas, *With the Grain of the Universe: The Church's Witness and Natural Theology* (Grand Rapids: Brazos Press, Gifford Lectures, 2001) p. 159ff..

It is hard to overstate the implications of this approach for any consideration of human rights and the nature of human sociality. At once it sets the whole life of the Christian in a context that is defined first and foremost by grace and the kingdom that is not of this world and it makes Jesus' crucifixion the central reality of this kingdom. Belonging to this kingdom gives rise to a vocation to witness to the truth that is in Jesus. This certainly does not annihilate ethics or serious moral endeavour nor yet political engagements. On the contrary it demands it because of the nature of the gospel through which this new relationship has come. That demand arises from and takes its mode of working from the same grace and love that is manifested in the action of God in Christ. This means that ethics and politics are about how to be neighbour for and to the other. It also means that concepts such as rights have no in the motivation of ethical action or the content of that action. It is the narrative of grace that moves and shapes action.

Narrative and Social Identity

In such circumstances two dimensions become important in providing for an approach to the visible identity of this grace; some sense of sociality amongst believers and a narrative that constitutes and sustains the life of that community. Christians have talked about these lines of continuity in a variety of terms, probably the most common of which is catholicity. Catholicity points to the connection between the local community and a wider fellowship with which it interacts. In the Anglican tradition of Christian faith this notion of catholicity as dynamic connection with a wider circle of the church community is held in check by a strongly inherited notion of the power and importance of proximity in ecclesial relationships. Richard Hooker put the point famously in his Ecclesiastical Laws in relation to political power and in relation to the

nature of a national church.²¹ This history has left Anglicans with a tradition of ecclesiology that is basically regional and relational, rather than universal and institutional.²² Sometimes this latter is spoken of as if there is a universal church to which local churches belong. The Anglican model moves rather in the opposite direction.²³

There is a second, diachronic, sense of connection often spoken of in terms of tradition, in particular a tradition that goes back to the apostles and to Jesus himself. This tradition is constituted not just by content of ideas or beliefs but also as a process of connection between generations. Tradition is the process of handing over from one generation to another, from one situation to another, the practices and beliefs by

²¹ See Richard Hooker 'Yea the very deitie it self both keepeth and requireth for ever this to be kept as a law, that wheresoever there is a coagmentation of many, the lowest be knitt to the highest by that which being interjacent may cause each to cleave unto the other and so all to continue one.' W.E. Speed Hill (ed.), *The Folger Library Edition of the Works of Richard Hooker* (7 vols.; Cambridge, MA: Harvard University Press; and Binghampton: Medieval and Renaissance Studies, 1993), III, p. 331 (Book 8.2.1). See also Bruce Kaye, *Conflict and the Practice of Church: The Anglican Experiment* (Omaha, Nebraska: Wipf and Stock, 2009).

²² See the report of the international doctrine commission of the Anglican Communion, Inter Anglican Theological and Doctrinal Commission, *Communion, Conflict and Hope* (London: The Anglican Communion Office, 2008).

²³ See the strong statement on this in a report from the Lambent Conference which puts this Anglican model as the one that ultimately can be seen to be the truly Christian view, Committee on the Anglican Communion, 'The Anglican Communion', in (ed.), *The Lambeth Conference 1930. Encyclical Letter from the Bishops with Resolutions and Reports*, pp.152-63 London: Society for Promoting Christian Knowledge, 1930). 'There are two prevailing types of ecclesiastical organisation: that of centralised government, and that of regional autonomy within one fellowship. Of the former the Church of Rome is the great historical example. The latter type, which we share with the Orthodox Churches of the East and others, was that upon which the Church of the first centuries was developing until the claims of the Roman church and other tendencies confused the issue. The Provinces and Patriarchates of the first four centuries were bound together by no administrative bond: the real nexus was a common life resting upon a common faith, common Sacraments, and a common allegiance to an Unseen Head.' p.153

which the community is defined.²⁴ That process of tradition is the foundation out of which the continuing narrative is available. Because of the very nature of tradition that narrative over time is not univocal, though it is shaped by continual recourse to its foundational narrative of the apostolic age and the life and death of Jesus of Nazareth.²⁵ If we think in terms of tradition then we can more easily recognise that sub traditions emerge as the narrative moves to new situations and is transformed to gain expression and life in those new situations.²⁶ This process of differentiation feeds into the overall picture rather than distorting it.

In an Australian context this can be seen in the constitutional recitals of the Anglican Church of Australia. The constitution has two parts; I the Fundamental Declarations and the Ruling Principles, and Part II the Government of the church. The fundamental Declarations say three things; the ACA is part of the One Holy Catholic and Apostolic Church, it receives the scriptures of OT and NT as ‘the ultimate rule and standard’ of christian life and belief, and it will obey the commands of Christ. In other words this church is part of mainline Christianity and will act accordingly. The Ruling Principles, which are of somewhat lesser constitutional weight²⁷ declare the church to be derived from the Church of England and that it retains key elements of that tradition, including communion with the Church of England, so long as that is consistent with the Fundamental Declarations. On the other hand the church has

²⁴ See Alasdair C. MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame, Ind.: University of Notre Dame Press, 1988) and E Shils, *Tradition* (London: Faber and Faber, 1989).

²⁵ See for example SL Greenslade, 'The Authority of the Tradition of the Early Church in Early Anglican Thought', in G. G. a. V. V (ed.), *Tradition in Lutheranism and Anglicanism*, pp.9-33 (Minneapolis: Augsburg, 1972), RPC Hanson, *Tradition in the Early Church* (London: SCM Press, 1962).

²⁶ See Bruce Kaye, *Reinventing Anglicanism. A Vision of Confidence, Community and Engagement in Anglican Christianity* (Adelaide: Openbook, 2004) and *An Introduction to World Anglicanism* (Cambridge: Cambridge University Press, 2008).

²⁷ There is no provision to alter the Fundamental Declarations, save in the matter of the name of the church. The rest of the constitutions can be amended according to varying levels of requirements. See The Anglican Church of Australia, *The Constitution Canons and Rules of the Anglican Church of Australia* (Sydney: The Standing Committee of the Anglican Church of Australia, 2004).

authority to conduct its own affairs according to the provisions of the constitution. Part II of the constitution sets out in twelve chapters how the church is to be governed. The narrative of this church is thus clear. It is part of historic Christianity, it derives from the sub tradition of English Anglicanism and within that framework it is an independent entity to act appropriately in its Australian context according to certain agreed procedures.

This example of a church constitution also shows that the kind of tradition we are talking about sustains its continuity through a commitment in its community life to the originating narrative²⁸ of the Christian scriptures and the early church creeds not only by means of certain beliefs but also by means of certain persistent practices in the life of the community.²⁹ The constitution specifies how decisions are made in synods, how the community exists within dioceses and how there are certain classes of people who have ministerial responsibilities and privileges and how they are to be held accountable. These arrangements exist to provide for an ordered ministry of word and sacrament in the local communities of Anglicans. These procedures assume not only the spiritual value of practices of word and sacrament, but also the necessity to provide for these through institutional arrangements. These institutional arrangements have themselves a history and may be changed in the light of circumstances. They also carry within them tacit assumptions about the beliefs and values of the community they serve.³⁰

²⁸ On the role of origins in contemporary Christian faith and practice see Bruce Kaye, *Web of Meaning. The Role of Origins in Christian Faith* (Sydney: Aquila Press, 2000. From 2009 distributed through Broughton Press, Melbourne). A different model arising from a different conception of the character of institutional continuity through time can be seen in the exposition of continuity and renewal in Roman Catholic moral teaching can be seen in John Paul II, *Sollicitudo Rei Socialis. On Social Concerns* (Sydney: St Paul Publications, 1988), especially chapter 2, 'Originality of the Encyclical *Populorum Progressio*'.

²⁹ For this way of understanding Anglicanism generally see Bruce Kaye, *An Introduction to World Anglicanism* (Cambridge: Cambridge University Press, 2008).

³⁰ For example the General Synod has updated the inherited Canons of the Church of England so that they fit the current Australian context. Similarly they have revised the disciplinary procedures for clergy and bishops in the light of institutional failure in the area of sexual abuse in the church.

In the ACA these beliefs and practices shape the life of the ongoing community of Anglicans and provide the resources that enable the life and faith of the individuals that belong to this community to flourish. Within the terms of this narrative these resources are means of grace. Framing the sacraments and the ministry of the word is the persistent response to the energising and creative activity of God in the community. The church community lives and dies by its openness to this divine initiative. Within this framework the church is a community of responsible agents shaped by a gospel of grace and forgiveness, marked by a story of continuity and by institutions that exist not only to house memory but to shape the virtues in the community.³¹ The organisational aspects of the institutions are secondary to the primary practices in the community and the growth of faith and Christian character in the community.³² It is this local setting that has lead Anglicans world wide to recognise that the ministerial offices may be adapted to local needs.³³

³¹ See Bruce Kaye, *Reinventing Anglicanism. A Vision of Confidence, Community and Engagement in Anglican Christianity* (Adelaide: Openbook, 2004) and *Web of Meaning. The Role of Origins in Christian Faith* (Sydney: Aquila Press. Distributed from 2009 by Broughton Press, Melbourne, 2000).

³² Notice the interesting decision of the New South Wales Supreme Court as to whether the administrative investment arm of the diocese of Sydney was a religious institution for certain taxation purposes. The court found it not to be so on the grounds that it did not directly engage in religious activities. *Glebe Administration Board v. Commissioner of Pay-Roll Tax*, *New South Wales Law Reports*, 1987, pp.352-387. In this context it is interesting to notice the recent changes in the ordination service. The 1662 BCP ordinal defined the task of the priest in terms of the result in the life of the congregation it was to produce. The recent Australian Prayer Book defines it simply in terms of the activities clergy are to do.

³³ See the famous Lambeth Quadrilateral and its reference to the local adaptation of episcopacy in ecumenical dialogue;

Lambeth Conference of 1888 Resolution 11 That, in the opinion of this Conference, the following Articles supply a basis on which approach may be by God's blessing made towards Home Reunion:

(a) The Holy Scriptures of the Old and New Testaments, as "containing all things necessary to salvation," and as being the rule and ultimate standard of faith.

The Social and Political Narrative of Australia

Similar questions about the nature of human society apply more broadly in the general political arena. It is customary to describe Australia as secular as if that settled a number of questions about religion in public activity and the nature and configuration of our public institutions. Similarly the idea that Australia is a plural society suggests to some that this means we are a plural society in the way in which the US is a plural society. However even a cursory reading of the pluralist literature of the second half of the twentieth century makes it clear that the underlying assumptions are quite varied. One difference relevant to our present question is that the British pluralists were more open to the idea of plurality of groups within the body politic, whereas American pluralists were more focussed on the individual as the fundamental entity in their pluralist conceptions of the state.

In one sense this should not be surprising. The foundations of the US Republic were conceived in terms of the freedom of the individual. The Declaration of Independence makes this clear³⁴, and the Virginia Statute, written by Jefferson and promoted by Madison, also makes the point in relation to religion and the state.³⁵

(b) The Apostles' Creed, as the Baptismal Symbol; and the Nicene Creed, as the sufficient statement of the Christian faith.

(c) The two Sacraments ordained by Christ Himself--Baptism and the Supper of the Lord--ministered with unfailing use of Christ's words of Institution, and of the elements ordained by Him.

(d) The Historic Episcopate, locally adapted in the methods of its administration to the varying needs of the nations and peoples called of God into the Unity of His Church.

The text of this and all other Lambeth Conference resolutions can be found on the Lambeth conference web site, <http://www.lambethconference.org/index.cfm>

³⁴ 'We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed'. Accessed 8 July 2009 from <http://www.ushistory.org/declaration/document/index.htm>

³⁵ See Merrill D. Peterson, Robert C. Vaughan and Virginia Foundation for the Humanities and Public Policy.,

This foundational element in the US political and cultural tradition has had an influence on the values accepted in US public life and those tacit in the shape and operation of public institutions.³⁶

These differences arise from the history of the community. Even when modern society is seen in bureaucratised terms the impact of the past on the character of the society is not removed. The modern nation state did not emerge onto the stage of history without parentage or pedigree. While Madison and Hamilton may have wanted to create something entirely new at the Constitutional Congress in the summer of 1787 it remains the case that this most dramatic enlightenment inspired modern nation, the United States of America, created institutions and developed cultural habits that had significant traces of the past from which they imagined themselves to be separating. In his later reflections on Madisonian democratic thought Robert Dahl pointed out that the strong assertion of the political power of the people still left open choices about the structures of society.³⁷ Those choices were in the terms available at the time. Some precedents were available. The phenomenon of a large scale mass democratic state was not. Issues to do with the extent of the franchise and the relation between private property and personal freedom were.

The contrast between the origins of the US and Australia could not be more stark. The Declaration of Independence in 1776 began with universal claims about the

The Virginia Statute for Religious Freedom : Its Evolution and Consequences in American History (Cambridge [England] ; New York: Cambridge University Press, Cambridge Studies in Religion and American Public Life, 1988) and Bruce Kaye, *Conflict and the Practice of Church: The Anglican Experiment* (Omaha, Nebraska: Wipf and Stock, 2009) chapter 3.

³⁶ Simple things like the emerging agreement to incorporation with limited liability came readily in the US, for example in the New Jersey Acts as compared with Europe and the United Kingdom. The difference was in no small degree because such incorporation was seen as part of the right of the individual citizen, whereas in the United Kingdom it was thought of in terms of Crown prerogative and grant.

³⁷ Robert Alan Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, Expanded, 2006) pp.152-172

nature of the human condition. It carried its claim to start a new nation on the basis of twenty eight complaints against George III concluding that he was ‘A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people.’³⁸ These were actions taken by the independent settlers in nine communities.

In 1788 a motley crew of convicts and military settled in what was essentially a jail in New South Wales with limited freedoms or protections for the few settlers who came along later. In stages and by concession from the British government, this jail with its virtual Anglican establishment, acquired political and legal freedoms and protections. The final vestiges of British legal and political power in the Commonwealth and States of Australia did not disappear until well into the twentieth century. That particular history has had a significant effect on the character of Australian secularity and plurality and not surprisingly has left in its train very significant differences from what emerged in thunder and lightning in the United States of America.

Any response to the application of notions of rights in the Australian context needs to be set within the framework of the story of the nation and the social values that have been shaped by that story, especially those values that point to the ways in which individual and social flourishing have been enabled, or diminished. From the point of view of christian theology these are the particularities of divine providence with which a theologian must grapple.

We have already noted not only that the notion of rights is complex within its own history, but also that amongst theologians the status of rights is viewed quite differently. Some see a foundation for rights as given in the creative and redemptive action of God. They arise because humans are created in the image of God and are the subject of God’s redeeming work in Jesus Christ. Such views are often built upon

³⁸ Declaration of Independence, 4 July 1776, accessed 8 July 2009 from <http://www.ushistory.org/declaration/document/index.htm>

notions of natural law. Others see rights as a distraction from the real story of Christianity, which points to a gospel of divine grace and initiative that reaches out to a fallen humanity. This second view of the matter nonetheless can come to rights as practical mechanisms that might restrain evil and enable freedom of action and belief. However when rights are approached on this basis they have a very different status and character. They are not fundamental principles that are intrinsic in the human condition. They are not the inalienable rights found in the US proclamation tradition, which has found an echo in the UN declarations. Rather they are mechanism and ways of talking about social relations in order to address intractable power imbalances. These two different approaches to rights language will generally led to different ways of approaching the shaping of social relations. The former will have a more crusading ideological approach, though it will inevitably be combined with a realpolitik sense of what is possible, even for what is suitable for those whose power is necessary for the viability of a political unit. The most obvious case of such a pragmatic approach is of course the US when the founding fathers allowed slavery to stand outside the practical reach of their constitutional rhetoric. Given the second order sense of rights in the second approach it is obvious that practicalities will be a critical element in the deployment of rights language for political and social argument. In either sense the application of rights is set in the context of a particular society with its own story and developed social values and institutions. That means that we must now notice the particularities of the Australian context and in doing so focus on the place of religion in Australian social thinking. For the contemporary issues in Australia that means in particular addressing the character of Australian secularity and the narrative of the nation within which that secularity has been formed and gains meaning.

The Particular Australian Secularity and Social Change

Despite recent criticism and disturbing discontinuities for it, the broad secularization theory retains a residual hold for many people in western countries, especially in

Europe.³⁹ That theory asserts that in the progress of modernity humanity has outgrown the need for religion and as a result belief must wither away. Modernisation meant the inevitable decline in religious faith. Hugh McLeod underlines the role of human agency in this rather than seeing it as some kind of impersonal process. It was a contest between rival points of view. ‘Secularization happened at least in part because there were large numbers of people who were trying their hardest to bring it about.’⁴⁰ However, sociologists and especially historians are increasingly dismantling the secularization theory. One of its most prominent advocates in the middle of the twentieth century Peter Berger now says that

what I and most other sociologists of religion wrote in the 1960s about secularization was a mistake. Our basic argument was that secularization and modernity go hand in hand. With more modernization came more secularization. It wasn’t a crazy theory. There was some evidence for it. But I think it is basically wrong. Most of the world today is certainly not secular. It is very religious.⁴¹

This reconsideration has led to some very different interpretations of the place of religion in public life in some countries. Callum Brown sees Christianity in Britain as having entered terminal decline in the 1960s⁴², and Philip Jenkins sees a new

³⁹ See Jeffrey Cox, 'Master Narratives of Long-Term Religious Language', in H. McLeod and W. Ustorf (ed.), *The Decline of Christendom in Western Europe, 1750-2000*, pp.201-17 Cambridge: Cambridge University Press, 2003).

⁴⁰ Hugh McLeod, *Secularisation in Western Europe, 1848-1914* (Basingstoke: Macmillan, European Studies Series., 2000) p. 28. One might compare the market analogy used to similar effect in Rodney Stark and Roger Finke, *Acts of Faith : Explaining the Human Side of Religion* (Berkeley: University of California Press, 2000).

⁴¹ Peter Berger, 'Epistemological Modesty: An Interview with Peter Berger', *Christian Century* 114 (1997), pp. 972-75 (974). Criticism of the secularization theory in this form began as early as 1965 with the writings of David Martin, but it has now reached a point of significant generality. See Rodney Stark and Roger Finke, *Acts of Faith : Explaining the Human Side of Religion* (Berkeley: University of California Press, 2000) in particular chapter 3 ‘Secularization, R.I.P.’

⁴² Callum G. Brown, *The Death of Christian Britain : Understanding Secularisation 1800-2000* (London: Routledge, 2nd ed., 2009).

Christendom emerging in the Southern hemisphere and potentially including the US.⁴³ This new approach has not done away with the older view entirely but it has shown that secularization is not a universal phenomenon affecting all societies in the same way. Rather it has demonstrated that secularity is a way of speaking about the religious character of societies, or more particularly the place of religion in the life of societies including its public and private institutions.

One aspect of this reconsideration of religion in public life has been the closer identification of the different patterns of secularity in different countries. Following the Treaty of Westphalia and the operation of the principle of *cuius regio, eius religio* toleration came gradually and in different forms in Europe. The separation of church and state has been changing in different countries right up until the present day. The dramatic effect of the revocation in 1685 of the Edict of Nantes removed any semblance of toleration for protestants in France, while a concordat between church and state still exists in Switzerland and Germany which directly affects major social institutions such as universities. Hugh McLeod, who has written extensively on this theme concludes that ‘In questions to do with church and state and the role of religion in public institutions, there is no single European pattern, but there have been wide differences from country to country.’⁴⁴ France represents a dramatic legislative separation in this process and in the US separation was effected by the new revolutionary constitution and its bill of rights.⁴⁵ England and Germany stand in some contrast to these with a gradual change that left remnants of the earlier pattern in place.⁴⁶

⁴³ Philip Jenkins, *The Next Christendom : The Rise of Global Christianity* (Oxford ; New York: Oxford University Press, 2002).

⁴⁴ Hugh McLeod and Werner Ustorf, *The Decline of Christendom in Western Europe, 1750-2000* (Cambridge: Cambridge University Press, 2003) p.9.

⁴⁵ For the variety of arrangements around the world see the recent survey, Jonathan Fox, *A World Survey of Religion and the State* (Cambridge: Cambridge University Press, Cambridge Studies in Social Theory, Religion, and Politics, 2008).

⁴⁶ See David Hempton, 'Established Churches and the Growth of Religious Pluralism: A Case Study of Christianisation and Secularisation in England since 1700', in H. McLeod and W. Ustorf (ed.), *The*

In this framework Australia represents a gradualist move to secularity in the institutions of public life with distinct residual public values in those institutions. There was no fundamental separation of church and state at any stage of constitutional development in Australia.⁴⁷ During the nineteenth century there was certainly a great deal of suspicion about competition for social power from the churches, especially the Anglican Church.⁴⁸ After all the colony of NSW had begun as an Anglican jail, the creation of what was still in the late eighteenth century an Anglican state. Arthur Philip took oaths of loyalty as Governor of the new colony that included the very particular and, at the time very Anglican form of religious polemic, ‘that I do believe that there is not any Transubstantiation in the Sacrament of the Lord’s Supper or in the elements of Bread and Wine at or after the consecration thereof by any person whatsoever.’⁴⁹ Only Anglican chaplains were allowed to work in the colony and when an ecclesiastical structure was established it was Anglican. The archdeacon had a monopoly on the registration of marriages; in due course one seventh of the land in the colony was ceded over to the Church of England Church and Schools Corporation.⁵⁰

Decline of Christendom in Western Europe, 1750-2000, pp.81-98 Cambridge: Cambridge University Press, 2003).

⁴⁷ See T. R. Frame, *Church and State: Australia's Imaginary Wall* (Sydney: UNSW Press, 2006).

⁴⁸ When the Church of England in NSW sought a constitution through an act of the state parliament a committee of enquiry was established and heard evidence. Almost all the objections to the proposal reflected a fear that the Church of England was seeking some preferential positioning the life of the state. New South Wales Select Committee, *Report from the Select Committee on the Church of England Synods Bill: Together with the Proceedings of the Committee, Minutes of Evidence and Appendix*, (Sydney: 1860).

⁴⁹ See F. Watson and Australia. Parliament. Library Committee *Historical Records of Australia* (Sydney: Library Committee of the Commonwealth Parliament, 1914-), Series IV Legal Papers, Section A, Volume 1, 19-22. See Bruce Kaye, ‘Descended From And Anglican Jail: Anglicans and Church and State in Twenty First century Australia’, forthcoming in *Church and State from Old to New Worlds*, edited by Hilary Carey and John Gascoigne.

⁵⁰ The corporation was established in 1826 but abandoned in 1833 as being impractical. The action was subsequently explained as being a contradiction of the plurality of religious bodies that had come to recognition in the Bourke Acts of 1836.

All this began to change under governor Richard Bourke with his church acts of 1836, which shared state financial support between the main christian churches, Presbyterian, Roman Catholic and Anglican. The Anglican bishop, William Grant Broughton opposed these moves on the grounds that it was against the constitution of England, which gave preference to the Church of England. He failed, and soon the Anglican monopoly on state funds for education was lost. The Church and Schools Corporation had already been dissolved and by mid century state funding for churches through education and directly to clergy was related to numbers of registered members of each church. Direct aid to churches in NSW was abolished in 1862 and in 1880 in NSW all state funding for church schools was abolished and a state system of free compulsory and secular schools was established.

But secular did not mean irreligious, or even lacking any religious content. The 1880 act provided for worship assemblies, the teaching of general Christianity in the school curriculum and released time for clergy to teach their particular doctrines of Christian faith. Those obligations remain to this day, and church representatives regularly visit schools to give Christian education.

When the University of Sydney was established there was much controversy about the nature of its secularity, or as it was expressed at the time, the presence in the university of the 'religious principle'.⁵¹ A compromise was agreed principally with the Anglican Church, which required all graduands to provide a certificate that they had received religious instruction from an authorized person from their church, often from one of the church colleges in the university.⁵² The correspondence at the time

⁵¹ See the memorandum by Bishop Tyrell of Newcastle in the Sydney Morning Herald, 18 December 1852

⁵² See Bruce Kaye, 'George Augustus Selwyn in Australia', forthcoming in Essays to Celebrate the GA Selwyn, Edited by Alan Davidson, K J Cable, 'The University of Sydney and Its Affiliated College, 1850-1880', *The Australian University* 2 (1964), pp. 183-214 and C Turney, U Bygott and P

makes it clear that the principle of secularity fought for by the first provost and the members of the Senate of the university was that there should be no teaching of divinity in the university. Nonetheless the speeches at the inauguration of the university make it clear that the chief protagonists in the establishment and shaping of the university saw the new institution as serving to promote the christian religion and morality. Furthermore this sentiment was inscribed in the charter of the university and it remains there to this day.⁵³ There were a church representatives on the first senate and the first principal was an Anglican priest as is the present vice chancellor, though there are no church representatives on the Senate now.

These two important areas of social life in Australia do not comprehend the whole story, but they illustrate that Australian secularity is made up of a series of arrangements which may differ in detail but which set out a pattern that retains religion as a critical issue in the public life of the society.

A similar pattern can be seen in the judicial tradition of interpretation of clause 116 of the Commonwealth constitution.⁵⁴ That tradition sets out the matter in terms that are significantly different from the strict separation that has developed in the United States. Instead of the wall of separation in the US the Australian pattern provides for equitable support for religions from the state. Instead of a doctrine of non-entanglement in the US the Australian tradition has a doctrine of equitable entanglement. The question of what constitutes a religion so as to bring it within this

Chippendale, *Australia's First. A History of the University of Sydney Volume I 1850-1939* (Sydney: Hale and Iremonger, 1991).

⁵³ 'for the advancement of religion and morality and the promotion of useful knowledge to hold forth to all classes and denominations of our faithful subjects, without any distinction whatsoever, throughout our dominions encouragement for pursuing a regular and liberal course of education' Quoted from the university web site <http://www.usyd.edu.au/calendar/docs/charter.pdf> Accessed 14 October 2008.

⁵⁴ See especially R Ely, *Unto God and Caesar. Religious Issues in the Emerging Commonwealth 1891-1906* (Melbourne: Melbourne University Press, 1976).

catchment is thus a real question in interpreting the constitution in Australia,⁵⁵ as also is the question of what makes an institution religious.⁵⁶

The changes in the pattern of this secularity in Australia were not done in the name of atheism, nor of irreligion, nor yet in the name of a secular enlightenment notion of the state or human sociality. Some of the protagonists in making changes may have acted out of such motives, but they were not the rationale or the main arguments. These changes were done in different ways for a variety of reasons. Sometimes to manage religious conflict, sometimes to promote institutions which could operate more strictly in the terms of their own activity such as a university. They were done within the framework of a notion of the human condition that was essentially social. They came at the question in terms of what was thought to be the interests and values of the society as a society, which they assumed to be religious and in a long early period, christian.

That approach did not preclude concern for individuals. On the contrary, the weak were to be assisted; the disadvantaged were to be given a fair go. Such arrangements

⁵⁵ Mason A.C.J. and Brennan J. in their judgement in the case of *The Church of the New Faith and The Commissioner for Pay-Roll Tax (Victoria)* High Court of Australia, 154 C.L.R., 131 on the question of defining religion in relation to section 118 ‘The differing approaches of the judgements in the Full Court in this case, however, manifest the need for an authoritative Australian exposition of the concept of religion.’ See also BN Kaye, ‘An Australian Definition of Religion’, *University of New South Wales Law Journal* 14.2 (1992), pp. 332-51.

⁵⁶ The question before the High Court in the case of the Church of the New Faith was on appeal from the Supreme Court of Victoria in relation to exemption from pay-roll tax by the Church of the New Faith. The relevant Victorian law provided for exemption from pay-roll tax for ‘religious organisations’. The High Court addressed the question of whether the members of the church had a religion that fell within an appropriate Australian legal definition. The court found that they did have such a religion and upheld their appeal. The court did not clarify the concept of a ‘religious organisation’, which might actually be different from an organisation whose members all happened to share a common religion. That question of what is a religious organisation was addressed in the New South Wales Court of Appeal in *Glebe Administration Board v The Commissioner of Pay-Roll Tax*, 1987 NSW LR, 352-387.

did not always succeed in their aims and modifications were demanded. The values of one generation did not always succeed unchanged into the next. Attitudes to race, foreigners, and indigenous people are glaring examples. The position of tenants, creditors and employees are others. The Australian form of multiculturalism represents a form of inclusive group pluralism not found in many comparable nations.⁵⁷

Australia presents a form of secularity that has emerged out of a monopoly Anglican state into a plural democratic nation with its own ongoing development of the pattern of its social relations and the success and failures of its public institutions. Its public institutions are subject to forms of scrutiny that differ in their style and effectiveness in different areas of public life. Three states have independent corruption commissions; independent auditors examine state and commonwealth government activity, Royal Commissions and other forms of enquiry examine egregious failures and a range of legislation addresses issues such as discrimination. Amongst these instruments can be included the various international agreements about the treatment of individuals and certain classes of people and certain kinds of actions such as torture to which Australia is a signatory. These various instruments constitute an inventory of methods for dealing with institutional failure and the protection of the social values embedded in and developing within this Australian story.

This ongoing narrative of Australian existence as an evolving society with commitments and social values is an important framework for anyone approaching the issue of individual rights in this context. Given the contingent character of the human condition in the light of the kingdom of Jesus which is not of this world, the theologian's question becomes how in this particular context is the christian to be neighbour in this kind of society. How are they thus to testify to the nature of the kingdom of God? Such a question is addressed not just to individuals within society

⁵⁷ See Mark Lopez, *The Origins of Multiculturalism in Australian Politics; 1945-1975* (Melbourne: Melbourne University Press, 2000).

but also and fundamentally to the institutions and frameworks that shape the lives of those who engage with them and inhabit them.

Yet any question of the appropriate form of protections and freedoms for individuals and groups in Australia needs to be considered in the light of its quite particular form of secularity and assumptions about social values. The notion of inalienable individual human rights that has so shaped that very differently structured society of the United States of America has not been a central or powerful force in shaping the structure of this society. Indeed, despite many practical commonalities, the two societies are founded upon significantly different assumptions at this point.

Perhaps trying to live as one who belongs to a kingdom not of this world suggests a greater awareness of the importance of narrative and the shaping influence of institutions. It seems to me that it would make more sense to build with the bricks and mortar drawn from that narrative rather than introduce principles that imply a significantly different understanding of society.

There are various mechanisms currently in place in state and federal levels which regulate and audit the operation of public institutions and their agents, including the parliaments. A more coherent and if necessary more extensive set of such auditing and regulating mechanisms for public institutions would be more consonant with the Australian social and political narrative than the introduction of rights instruments which ill fit the social traditions and particularities of the Australian story.