‘LET THE PEOPLE DECIDE’

SELF-DETERMINATION, LIBERATION
FROM THE COLONIAL EXPERIENCE
AND THE HUMAN RIGHTS APPROACH

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Thesis submitted for the degree of Doctor of Philosophy
July 2011
STATEMENT OF ORIGINALITY

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ACKNOWLEDGMENTS

I acknowledge the support of Newcastle Law School, and the University of Newcastle Equity Research Fellowship, in my professional life and in the completion of this thesis. Many thanks to my colleagues in the School for their friendship and advice. Particular thanks to my teaching colleague Jeff McGee, for his encouragement and for acting as a very helpful sounding board. Thanks, also, to my students, who have inspired me to explore creative ways of thinking about international law.

Thanks to Dr Deirdre Howard-Wagner and Dr Jackson Maogoto, my initial supervisors, for encouraging me to enter into a life in research, and for assisting me in shaping the path for this project. I am very grateful to Kate Lindsay, of Newcastle Law School, for providing extremely helpful supervision and advice throughout the analytical and writing stages of this thesis, and through to completion. I am also most grateful to Professor Gillian Triggs, of Sydney Law School, for supervising the final stage of my research, and providing me with the great benefits of her expertise, insight and encouragement.

My deepest gratitude is to my family, for their love and support. Thank you to the Harrison clan in Australia, and to the Maguire family in Ireland. My husband, Marty, inspires me every day. He has been a patient and loyal adviser, critic and source of motivation. My mother, Elizabeth, has been a constant source of encouragement and love. I give my very dear thanks to these two most special people. I would like to dedicate my thesis to my daughter, Niamh. She has brought beauty and wonder into my life and changed my perspective on the world, for the better.
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CONCLUSION

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The most prominent engagement of the right of self-determination to date was in the
decolonisation era, when it was asserted to facilitate the emergence to independence of
formerly colonised peoples. The newly decolonised states met the ‘salt-water’ test of
colonialism, and their boundaries were drawn on the basis of *uti possidetis juris*.

Self-determination is less frequently asserted today, however, contemporary ‘hard cases’
remain. Of these cases, some involve peoples who can demonstrate a continuing colonial
experience. For varying reasons, these claimants do not meet the salt-water colonial test
and their claims are often overlooked by the international community. Their
circumstances are regarded mostly as internal political issues for their administering
states. This is unjust and inhibitive of creative self-determination solutions in multi-ethnic
states. Self-determination, as a universal human right, retains the potential to meet the
needs of these contemporary, anti-colonial claimants. However, it must be interpreted in
new ways in order to adapt to the differing circumstances of contemporary claimants.

This thesis examines the significance of the colonial experience for two contemporary
claimant peoples; Irish nationalists in the North of Ireland, and Indigenous peoples in
Australia. I argue that the contemporary colonial experiences of these claimant groups
must be acknowledged and addressed, in order to evaluate their self-determination claims
in a context of truth and justice. I also argue that a human rights-based approach to the
right of self-determination must be established, to address the circumstances of
contemporary claimants and enable the balancing of their rights with those of the peoples
with whom they share territory.

Data gathered through in-depth interviews has shaped my findings regarding the colonial
experience of contemporary self-determination claimants, and the range of means by
which a twenty-first century approach to the right may be developed. This data proves the
value of consulting with rights claimants, and the ways in which their perspectives might
reshape state responses to self-determination issues. States willing to respond to the
perspectives of rights claimants can improve their international standing, strengthen
human rights discourse and enhance the wellbeing of all groups in their societies.