



Conclusion

Abstract In the final chapter we conclude the book by restating the nature of Indigenous Law, as the localised configuration of a social, ecological, geographical and ancestral world. Law is held in language, song and ceremony, which delineate a people's physical and metaphysical territory. In contemporary colonised settings, Indigenous struggles for justice, sovereignty and self-determination are mediated through western frameworks and languages which erase the substance of Indigenous Law in and of itself. Indigenous people are faced with the dilemma of fighting for their family and their Country on terms and within systems that continue to obliterate and marginalise the realpolitik of their Law. In this concluding chapter we encourage researchers, artists, decision-makers, service providers and others who work with Indigenous peoples to seek out respectful relational encounters with Indigenous knowledges and Laws. This means forming relationships with people and communities in situ over extended periods of time wherever possible. As we have demonstrated, Indigenous Law continues to evolve and change in its manifestations between generations in the context of rapid socio-cultural change. However, Law also continues to govern the day-to-day negotiation of politics, people and identity within and between Indigenous communities. Decision-makers of all stripes working with Indigenous communities will benefit from a pluralistic disposition in seeking to better understand the communities they work alongside, and the Country on which they stand.

Keywords Indigenous Law • Pluralism • Land rights • Law today

The southwest Gulf of Carpentaria occupies a particular place in the white Australian colonial imagination. The Gulf is a ‘wild place’ void of civilisation and culture; it was one of the ‘final frontiers’ of white settlement where pastoralists, explorers and various criminalised or socially objectionable outcasts ‘tamed’ a harsh and uninhabited part of the continent. Following the initial waves of white settlement, this region and in particular the township of Borroloola were widely perceived in the early-mid 1900s as a wild place of violence, criminality and unregulated pastoral development idiomatic of the ‘real outback’ (Harney 1946, 1957).

Yet, in a Yanyuwa registry, referring to a place or tracts of Country as ‘wild’ carries with it different connotations. In a Yanyuwa sense, ‘wild Country’ is Country that has been ruined, overrun, abandoned or over-exploited, Country that has been thrashed by mining, tourism and agricultural development and is alienated from, and ultimately closed off to, the people who belong to it. The sea, rivers and vast savannahs yield less; land becomes overgrown and impenetrable; lagoons dry up, shrivel and become lifeless. People may remain in these places, yet they too dwindle and suffer as hearts grow wild with the grief for that which has been destroyed and the life that has been extinguished. In a Yanyuwa sense, wild Country is Country which no longer responds to, or is enlivened by, kinship and Law.

There is similarity between western and Yanyuwa perceptions of wildness, a general absence of life or lawfulness. From a western capitalist point of view, modern government, bureaucracy and regulation in the southwest Gulf of Carpentaria has facilitated agricultural and mining development throughout the twentieth century which has ‘civilised’ this once ‘wild’ place. Yet, in the Yanyuwa sense, during this time Country has become increasingly wild, wrecked, closed up and torn apart.

Indigenous Law is the localised configuration of a social, ecological, geographical and ancestral world. Law is held in language, song and ceremony, which delineate a people’s physical and metaphysical territory. In contemporary colonised settings, Indigenous struggles for justice, sovereignty and self-determination are mediated through western frameworks and languages which erase the substance of Indigenous Law. Indigenous

people are faced with the dilemma of fighting for their family and their Country on terms and within systems that continue to obliterate and marginalise the realpolitik of their Law. This tension manifests, for example, in the imposition of a ‘stakeholder’ framework in decision-making on Indigenous peoples’ lands and waters. It is of little value for Indigenous people to be rendered as ‘stakeholders’ in their own Country, when those imposing this western democratic aesthetic in decision-making fail to comprehend what is ultimately *at stake* for Indigenous people.

Co-author and senior Yanyuwa Law man Graham Friday Dimanyurru spent many years as the head ranger of the li-Anthawirriyarra Sea Ranger Unit. Graham ceaselessly battled to convey to non-Indigenous bureaucrats, government representatives and legal functionaries what was at stake for his family and his community on Yanyuwa terms when being consulted about decisions impacting upon Yanyuwa Country. Throughout his life of advocacy and leadership in this community, Graham saw clearly how the placement of non-Indigenous law as the sole relevant mechanism for decision-making was at the heart of his community’s perpetual hardship. In 2019, following a long meeting with representatives of the Parks and Wildlife Commission of the Northern Territory, the Northern Territory Government and the Australian Federal Government, Graham bluntly stated, “Whitefellas just have to pull Country apart, I have seen this. All of my life I have seen this, and I will tell you when whitefellas start this, there is no place for my Law, no, never!” To pull Country apart is to sever the bonds which we describe in this book; the kincentric web of relationships that holds Yanyuwa families and Country together, and further facilitates the continuity of Law between generations.

The legislative land rights schemes in Australia (including the *Native Title Act 1993* and the *Aboriginal Land Rights (Northern Territory) Act 1976*) are the most prominent attempt at integration of Indigenous ‘custom’, ‘tradition’ or Law into the Commonwealth’s western or common law. Yet in this field, the depth of engagement with Indigenous Law is substantially limited within the parameters of western real property law. Land claims in this community have been sources of immense tension, grief, in-fighting and humiliation as Yanyuwa have been required to explain themselves and their Law on terms and in language which betrays the substance of their Law and knowledge. In 2000, Dinah Norman a-Marrngawi sat quietly with author John Bradley after a long day of giving evidence during the *Lhungkannguwarra – People of the Mangroves: Sea Country Claim 2000*. She reflected with fatigued intensity on the demand

of having to explain the Law as she knew it to be within this whitefella western legal forum; a reflection upon what was really at stake.

Do any of these whitefellas, really know how hard this Law is? What a big job it is? I have been holding it all day for these white people, holding the Law for this Country. Do they really understand how that is for me? I have to hold the Law and I have to hold all my family, and the Country, and the Dreamings, song, ceremony, old people, everything, I have to hold them. (Dinah Norman a-Marrngawi 2000)

The task of holding Country and Law together in this way is an immense job and existential battle, which challenges the continuity of Law between generations. Annie a-Karrakayny, a senior Yanyuwa Law woman in her time, and deeply philosophical thinker, likewise reflected on this situation some years earlier,

...whitefellas will never hold this Law (Yanyuwa Law), they have no idea, you listen now, how many whitefellas ever learn our language, so they might get ears... they just think we are plain stupid, dumb, but they are the ones got no idea, even big man like prime minister, lawyer, what do they really know... nothing... everything has to be made to suit them... always that way, whitefella always has to come out on top. (Annie a-Karrakayny 1982)

The case study of Yanyuwa Law and its flattened rendering within the legislative land rights systems demonstrates a fundamental tension. While a genuine understanding of Indigenous Law requires substantial time engaging with people in situ and the subsequent long-term development of relationships embedded within a localised community, too often the mechanisms which attempt to integrate Indigenous Law and knowledges into western law scarcely facilitate these prerequisites. This is to say nothing of the struggles in satisfying western demands for ‘hard’ evidence of a Law which is embedded in orality.

Old Arthur’s testimony speaks to a level of intimate connectivity, reciprocity and responsibility among and between human and non-human phenomena; a deeply kincentric ecology built upon multilayered relationships that bind family to each other, to the Country and to place. Yanyuwa political agency and obligation does not stop at the edges of the human. Indigenous Law holds relationships between humans, their human and non-human ancestors, non-human presences such as animals and meteorological phenomena.

The Australia that many know today is demonstrated by a colonial map, and such maps divide land and sea into three categories: the border, the centre (the large cities, sites of power) and the outside (Thiong'o 1986:55). Through membership into one of these categories, we either receive the privileges associated with the centre, or become aware of the policies and erasures associated with violence on the periphery. We share Old Arthur's story as part of an exercise in remapping. Old Arthur's account of Law helps to restore Yanyuwa names, kinship and Law to the land and sea. Storytelling such as this begins and ends with a testimonial from, with and of Country. Country is not a backdrop to life, nor the context for a story, it is the very premise of why and how Law exists and why and how stories are told. Oral traditions are represented in this narrative, at the bequest of Annie a-Karrakayny, Old Arthur's sister's daughter. Their retelling is a process of reclamation that invokes oral and aural agents that speak to Yanyuwa sovereignty and decolonisation. Stories of Law such as presented in Chap. 3 are a creative force, grounded in relationality, revealing different political destinies, histories and geographies that are replete with narratives of Indigenous Law and politic, imagination and scholarship. There are elements of this reclamation and of Indigenous lifeworlds more broadly that the west will never grasp in depth.

This is not to say, however, that some degree of understanding and respectful engagement is not possible. At a deeper level, those who seek to understand Indigenous Law from an outsider perspective require a pluralistic and open disposition, a willingness to resist the urge to categorise knowledge and phenomena in accordance with a western way of being, and instead allow multiple ways of perceiving the world to co-exist. It is important to relinquish the urge to immediately make 'sense' of that which is foreign or incongruent with one's own way in the world. We encourage readers, researchers, decision-makers and non-Indigenous collaborators with Indigenous peoples to adopt a disposition of openness towards that which has no equivalence in one's own way of life, yet governs the lives of others alongside whom we live—or, indeed, on whose Country we live, work and grow.

Gradual insight into Indigenous Law on the part of non-Indigenous people is marked by moments where the disciplinary and epistemic boundaries which hold western knowledge in order tremor, shake and ultimately break apart. The flattening of Indigenous Law is analogous to the containment and redirection of water in Australia. Over centuries of white settlement on a substantially arid continent, Australia is now an agriculture of

dams and vast irrigation schemes which foolhardily seek to manufacture a European landscape. Dams pockmark the Country, trapping water securely and redirecting it towards a Eurocentric design, artificially draining the Country. A genuine understanding of Indigenous Law is a releasing of the dam walls. Those who seek to understand Indigenous Law from a western viewpoint must allow the ordered world as they have constructed and known it to pour out from its becalmed containment—which reflects our own image on the surface—and allow it to cascade outward into suppressed and dried up tributaries, seeping into soil that that has been mapped but never truly been understood by the west.

A pluralist cultural and cognitive shift is the predicant for non-Indigenous audiences to understand Law as something beyond an ultimately inconsequential ‘soft power’ or esoteric origin story which holds no bearing on people and politics of the present. We encourage researchers, artists, decision-makers, service providers and others who work with Indigenous peoples to seek out respectful relational encounters with Indigenous knowledges and Laws. This means forming relationships with people and communities in situ over extended periods of time wherever possible. As we have demonstrated, Indigenous Law continues to evolve and change in its manifestations between generations in the context of rapid socio-cultural change. However, Law also continues to govern the day-to-day negotiation of politics, people and identity within and between Indigenous communities. Decision-makers of all stripes working with Indigenous communities will benefit from this disposition in seeking to better understand the communities they work alongside, and the Country on which they stand.

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