

Some Thoughts about the Philosophical Underpinnings of Aboriginal Worldviews

Mary Graham¹

Western: What's the meaning of life?

Aboriginal: What is it that wants to know?

'The white man's law is always changing, but Aboriginal Law never changes, and is valid for all people.'

Mr. Bill Neidjie, 'Kakadu Man'

Basic Precepts of the Aboriginal World View

* The Land is the Law

* You are not alone in the world

Aboriginal people's culture is ancient, and certain observations have been made over many millennia about the nature of nature, spirit and being human. The most basic questions for any human group, despite advances in technology, have not changed much over time; they include:

- how do we live together (in a particular area, nation, or on earth), without killing each other off?
- how do we live without substantially damaging the environment?
- why do we live? We need to find the answer to this question in a way that does not make people feel alienated, lonely or murderous.

A Brief Description of the Two Axioms

The Land is the Law

The land is a sacred entity, not property or real estate; it is the great mother of all humanity. The Dreaming is a combination of meaning (about life and all reality), and an action guide to living. The two most important kinds of relationship in life are, firstly, those between land and people and, secondly, those amongst people themselves, the second being always contingent upon the

¹ The overall perspectives of this paper are based on courses delivered by Mary Graham and Lilla Watson at University of Queensland during 1980s.

first. The land, and how we treat it, is what determines our human-ness. Because land is sacred and must be looked after, the relation between people and land becomes the template for society and social relations. Therefore all meaning comes from land.

You are not alone in the world

Aboriginal people have a kinship system which extends into land; this system was and still is organised into clans. One's first loyalty is to one's own clan group. It does not matter how Western and urbanised Aboriginal people have become, this kinship system never changes. (It has been damaged by, for example, cultural genocide/Stolen Children/westernisation etc, but has not been altered substantially.) Every clan group has its own Dreaming or explanation of existence. We believe that a person finds their individuality within the group. To behave as if you are a discrete entity or a conscious isolate is to limit yourself to being an observer in an observed world.

Land

Aboriginal People's Relationship to Land

Every different clan group has stories about their beginnings. Stories are like our archives, detailing how Creator Beings from under the earth arose to shape the land and to create the landscape. There are myriad variations of the story, but the theme stays the same.

The whole surface of the earth was like a moonscape, no features, no flora and fauna, just bare open plain. But there were Creator Beings sleeping in a state of potentiality just under the surface. At a certain time they were disturbed, whereupon their potentiality transformed into actuality and they arose out of the ground. When they finally emerged, they were very big and tall. These beings were spirit ancestors of many of the varieties of flora and fauna, especially large animals, in Australia. When this emergence was completed, the spirit ancestors started to interact with one another, fighting, dancing, running about, making love, killing. All of this activity shaped the Australian landscape as we know it today.

Throughout this period humans remained asleep in various embryonic forms, in a state like a kind of proto-humanity. They were awakened by all the activity above; the Creator Beings helped these proto-humans to become fully human, teaching them the Laws of custodianship of land, the Laws of kinship, of marriage, of correct ceremonies—they gave them every kind of knowledge they needed to look after the land and to have a stable society.

When this work was finished, the Creator Beings went back into the land, where they all still remain in the same eternal sleep from which they awakened at the

beginning of time. The locations to which they returned have always been and are still today regarded as very important sacred sites.

Wherever the Creator Beings travelled, they left tracks or some kind of evidence of themselves. These traces determined the identity of the people. In other words, every Aboriginal person has a part of the essence of one of the original creative spirits who formed the Australian landscape. Therefore each person has a charter of custodianship empowering them and making them responsible for renewing that part of the flora and its fauna. The details of this metaphysics varied widely across the land with the physical environment, but the spiritual basis—the understanding that what separates humans from animals is the fact that each human bears a creative and spiritual identity which still resides in land itself—provided and still provides in many places the religious, social, political and economic force throughout Aboriginal Australia.

Land in Modern Australia: the Long-term View:

Aboriginal society is accustomed to looking to the long term, and thinking strategically. A society which has a custodial ethic has to do this. From this perspective, short-term tactics are of less consequence; it is important to keep the big picture in mind.

Many White Australians are concerned to be involved in the maturation process of Australian society, through support for Aboriginal people/Reconciliation; they are searching for a new identity—politically or sociologically. The best way of achieving these ends is to start establishing very close ties with land, not necessarily via ownership of property but via locally-based, inclusive, non-political, strategy-based frameworks, with a very long term aim of simply looking after land.

How can such long-term views and goals be developed and maintained? Certainly not by having theoretical blueprints. From an Aboriginal perspective, *the goal must not be seen as a high moral ideal or 'holy grail'*. The custodial ethic is achieved through repetitive action, such that gradually, over time, the ethic becomes the 'norm'. For Aboriginal people, the land is *the great teacher*; it not only teaches us how to relate to it, but to each other; it suggests a notion of caring for something outside ourselves, something that is in and of nature and that will exist for all time. Every Aboriginal person had a place at some intersection within the kinship network which extended over the whole of Australia, and every intersection within that grid was anchored, eternally, to some point on the landscape by the relationship to Creator Being ancestors.

Outlined below are some ideas regarding how Australians might (together) manage the development of a collective spiritual identity, *one which is based in land—especially in the sacredness of land*.

Strategies for Achieving a Collective Spiritual Identity²

(a) Accommodation within the education system of programs with activities through which this identity is grown in children, activities such as groups caring for particular chosen tracts of land, not only via gardening, but tending, having recreational and ceremonial activities there, creating stories about and artistic expressions of the relevant sites, protecting them from damage, and maintaining continuity with them throughout the formative years of childhood and on into adulthood.

(b) Teaching philosophy in schools—teaching children not so much what to think but how to think. This has never been more important than now with the growth of computer use in education and play, and the gradual ‘removal’ of children from the social landscape. Indigenous philosophies as well as general Western ideas should be taught, especially the notion of the ‘reflective motive’, which would help young people to be more contemplative.

The reflective motive is a group process of meditating upon our collective actions and experiential learning; it is not a matter of individuals reflecting in a random way but of the collectivity reflecting on why and how we as a group act and experience events. This process is encouraged, via acts of sharing and communal living, in as natural a way as possible (i.e., not solely as an intellectual exercise). The result is that the process becomes habitual and, at the same time, non-egocentric.

The reflective and questing Aboriginal mind is always aligned with what everyone in the group wants, and what everyone wants is to understand ourselves in order to have and maintain harmonious relationships. The activity of philosophical speculation should not be engaged in alone, nor in a competitive, adversarial debate, but with others in a sharing environment, so that reflective thought is always associated with the ‘other’.

(c) Two mutually opposing drives—one towards social stability and certainty, the other towards creativity and (especially technological) development—seem to be fundamental to the Western cultural psyche. Technological development creates ever more material goods to be acquired so that creativity itself now seems to be inextricably tied to consumerism, which in turn leads to increased tension and social alienation within and between classes and groups in many Western societies. Maybe ‘smart’ campaigns could be started by appropriate community groups to warn society about the dangers to health overall of incessant acquisition of unnecessary goods—campaigns like those of the anti-smoking, -drinking and -speeding lobbies. These campaigns would have to be conducted in a very clever, humorous way, without preaching.

² Some of these ideas are based on Graham et al, 1993.

(d) Identification of the metaphysical meaning of money (economics). Despite all the wonderful advances that science and economics have brought, it cannot be denied that a by-product has been a world devoid of value, meaning and spirit. Such a world is the inevitable outcome of any ontology which lacks a dimension of spirit or the sacred.

From an Aboriginal perspective, spirit or the sacred has been reified by Westerners as 'money': Western behaviour, as we have observed it over the last two hundred years, is consistent with that of a community for whom money is sacred. (In Aboriginal society, money has the same status as other useful resources, like food, clothing, transport and housing. These resources are there for the use and benefit of the family group firstly, and after that for the community. Money is therefore subject to the same sort of treatment as other resources—it is to be shared, not for idealistic or virtuous reasons, but for practical reasons and to prompt the reflective motive.)

Given the spiritual significance of money, there is almost an invisible contract for consumers to engage in what economists call a 'disutility', the pain necessary to earn the pleasures of money and leisure; the acceptance of the necessity of this disutility can do and has done serious damage to people's souls.

(e) Initiating a modern Rites of Passage program appropriate for modern, urban young people. This would include the following: physical challenges, artistic expression, self-defence, learning about sexuality, sports, cultural activities, the establishment and ritualisation of sacred relationship with land, community caring and celebration.

A View of the West from an Aboriginal Perspective

There never was and there never will be a paradise—neither an Indigenous one, a religious or moral one, a worker's, futuristic, technological or even a physical one. This is important to understand, because the hierarchical structure of many societies gives the impression that one is always on the way to some *destination*, to a better position, life or world. Although this is an illusion, Western people were (and still are) habituated to the notion of 'travelling', metaphorically, toward some great unknown where they hope that what might be waiting for them is, if not Heaven, then maybe, Happiness, Love, Security, a Theory Explaining Everything.

Throughout the whole historical period, from the birth of the state to the transformation of people into citizens of nations and members of ever-changing class systems, social relations became ever more disconnected, alienated and strained. This development was softened to some extent, and at the same time camouflaged, by economic materialism, which ensured that people sought spiritual and psychological security through an identity based on ownership. Throughout their history, the behaviour of Westerners has been consistent with

that of a people who believe that they are quite alone in existence—that the individual is, metaphysically speaking, totally alone. This is also why the notion of spirit and the sacred gradually disappear from their intellectual discourse (though not from their writing and poetry).

If a society makes the sacred simply a matter of personal choice or private concern for individuals, then the next logical step is for these metaphysical isolates to extend themselves physically (which is in reality an unacknowledged search for meaning), and ownership is physical extension by accretion.

But what is the sacred, this domain of spirit that has been lost to Western society? What does it consist of? Where does it reside? From an Aboriginal perspective, it resides in the relationship between the human spirit and the natural life force. When there is a breach between the two, or rather, when the link between the two is weakened, then a human being becomes a totally individuated self, a discrete entity whirling in space, completely free. Its freedom is a fearful freedom however, because a sense of deepest spiritual loneliness and alienation envelopes the individual. The result is then that whatever form the environment or landscape takes, it becomes and remains a hostile place. The discrete individual then has to arm itself not just literally against other discrete individuals, but against its environment—which is why land is always something to be conquered and owned. Indeed the individual has to arm itself against loneliness and against nature itself—though not against ideas. It arms itself with materialism, ownership, possessiveness (not just vulgar materialism).

This is why economics generally has meant survival in Western society, not only in the practical sense, but in the moral, psychological and spiritual senses too. Enter economic rationalism, with its 'law of the jungle' approach to the market dictatorship of societies, which has compounded the already existing global sociopolitical crises. These crises, and the inadequacy of economism as a defence against meaninglessness, has ushered in a new search/struggle in the Western world for the true definition of identity or meaning—for the definition of *human* identity, that is, not political/nationalist identity. This raises again all those questions which many people thought had been answered: Why are we here? Why am I doing this job? Where am I going? What does this global crisis mean? What can I do about anything?

These questions and many more are currently being asked by many Australians of themselves and of their own society. I firmly believe that the developments of the last decade with regard to Aboriginal land rights/Native Title have highlighted the ambivalent relationship Australians have with land in this country, and their uncomfortable relationship with Aboriginal people. Many Australians, however, have seen this period as a chance to understand themselves and their country and the kind of society they want in the future for their children.

Part of the problem for Aboriginal people in modern Australia is working out ways in which we can continue carrying out custodial responsibilities to land and, at the same time, try to obtain control over the economic development of our communities without falling prey to the seductions of individualism. At the same time we are trying to deal with issues of Native Title, Stolen Generations, Apologies and Reconciliation, or what's left of it.

Society

The Western question, 'what's the meaning of life?' is answered by the Aboriginal question, 'what is it that wants to know?'

The Aboriginal cultural praxis maintains that one does not need work, money or possessions to justify one's existence; in fact there is no notion of having to justify one's existence at all.

There is an interesting story that illustrates this view. In NSW, during the 1800s, a Scottish farmer named Ogilvie found, after carrying out a survey comparing White Australian and Aboriginal work styles, that Aboriginals were quite different to White people: they hunted, they looked after their ancestral lands, they carried out their traditions, they observed their family obligations, and they attended to the sacred. They were, as he put it, gentlemen, and gentlemen do not work.

Over vast periods of time, Aboriginal people invested most of their creative energy in trying to understand what makes it possible for people to act purposively, or to put it another way, *what is it exactly that makes us human?* What Aboriginal people have done is to map the great repertoire of human feeling to such an extent that its continuities with the psychic life of the wider world become apparent; Aboriginal Law is grounded in the perception of a psychic level of natural behaviour, the behaviour of natural entities. Aboriginal people maintain that humans are not alone. They are connected and made by way of relationships with a wide range of beings, and it is thus of prime importance to maintain and strengthen these relationships.

Custodial Ethic toward Land

Although Indigenous people everywhere are westernised to different degrees, Aboriginal people's identity is essentially always embedded in land and defined by their relationships to it and to other people. The sacred web of connections includes not only kinship relations and relations to the land, but also relations to nature and all living things. When a controlling ethic, lacking such a collective spiritual basis prevails or is chosen, then the sacred becomes constrained by religious and political imperatives, and the voyage to societal and spiritual hierarchies begins. The logical end point of such a system is a narrow survivalist mentality and perspective on life and on existence itself. This is because such

systems incorporate strong reward/punishment systems; they provide clear direction for people's fears, dreams, ambitions and ultimately status. In fact this mentality becomes both the reason and the impelling force for constant action, change and even belief without reflection. People become habituated to such systems if rewards are, not necessarily large or rich, but at least constant and established. Collective self knowledge is then seen as not very important; it could even be viewed as a chore or burden best avoided.

Old Aboriginal people have often stated that White Australians 'have no Dreaming', that is, they have no collective spiritual identity, together with no true understanding of having a correct or 'proper' relationship with land/reality. Many White Australians recognise this themselves and are working, planning and creating, quite often with Aboriginal people, to change this situation.

Reflective Motive

The non-ego based nature of Aboriginal society was grounded in an understanding of the human psyche. The Aboriginal understanding posits that the tendency to possess is more deeply embedded in the human psyche than is the tendency to share. In other words, possessiveness is a more 'primitive' mode of behaviour than sharing or altruism; possessiveness precedes altruism and it therefore takes a higher order of abilities to maintain 'sharing' behaviour than it takes to demonstrate possessive behaviour. Possessive behaviour is asserted or exhibited spontaneously and unreflectively. Sharing behaviour has to be inculcated in the first place and then 'maintained'. It involves such abstract concepts as 'reciprocity', 'strategy' and above all 'community'.

When the Aboriginal child learns to share, he or she is given food and then invited to give it back; social obligations are pointed out and possessiveness gently discouraged, as in the following child's lullaby:

Give to me, Baby,
Give to her, Baby,
Give to him, Baby,
Give to one, Baby,
Give to all, Baby.

It must be said, however, that a collective responsibility to land is vital if people are even to attempt to transcend ego and possessiveness; the point is that land always comes before ego and possessions. These things tend to present a barrier to upholding obligations to look after land.

The effect of this transcendence of ego is to inculcate a sense of communal, rather than individuated, identity, and, most importantly, *to encourage reflective engagement in all activities*. Such a reflective effort, which in Western culture issued in science, resulted, in Aboriginal culture, in the thorough examination

of what it means to be human. Therefore for Westerners, possessiveness—which emerges from within the smouldering ember of the *unreflective motive* found within the cult of individualism—is what makes modern Western economic activity possible and money valuable.

Logic

Aboriginal logic is very different to Western logic. Western logic rests on the division between the self and the not-self, the external and the internal. This means that it is the viewpoint of the human individual that is taken to be the window between the external world of fact and the internal world of beliefs. Within the terms of such a division, and the ‘viewpoint’ which it produces, things can only ever appear as either true or false if they are to appear to ‘be’ at all; this is the law of the Excluded Middle.

Aboriginal logic maintains that there is no division between the observing mind and anything else: there is no ‘external world’ to inhabit. There are distinctions between the physical and the spiritual, but these aspects of existence continually interpenetrate each other. All perspectives are thus valid and reasonable: there is no one way or meaning of life. There is never a barrier between the mind and the Creative; the whole repertoire of what is possible continually presents or is expressed as an infinite range of Dreamings. What is possible is the *transformative dynamic of growth*.

If one true way is posited, sooner or later individuals or groups are inclined to ideologise it; rigid thinking then follows (or vice versa), and the formation of groups of ‘true believers’, chosen people, sects, religions, parties etc cannot be far behind.

Historically, different groups/individuals have assumed that there is only one absolute answer to the question of existence, usually their own. If this assumption is accepted, then logically there must be thousands, if not millions, of potential absolute answers to this age-old question. Aboriginal people however approached this dilemma differently: the only constant in the lives of human beings was, according to them, land/nature. Ideas are myriad and ever changing. This is why the custodial ethic, based on and expressed through Aboriginal Law, is so essential not only to Aboriginal society but to any society that intends to continue for millennia and wants to regard itself as mature.

Aboriginal law is valid for all people only in the sense that all people are placed on land wherever they happen to be, so that the custodial ethic, which is primarily an obligatory system, may be acted on by anyone who is interested in looking after or caring for land. It most certainly is not itself a ‘true’ way—there are no ideas surrounding it as to the right method, correct rules etc; there are no small, powerful groups that are the ‘only exponents’; there is no hard, soft, liberal, or orthodox approach to this ethic.

The custodial ethic/Aboriginal Law thus cannot be idealised: it is a locus of identity for human beings, not a focus of identity: we can achieve the fullest expression of our human identity in a location in land. This identity emerges out of a place in the landscape with meaning intact. Ideology, in contrast, provides a sharp focus for ideas and a definition of the human individual, where this in turn places the individual, as human, against land, as mere backdrop. Meaning is then moulded to fit this framework (rather than emerging intact from a place in the landscape).

Land and Aboriginal Law

Natural and Positive Law

Mr Neidjie's statement at the beginning of this paper is an observation which reveals one difference between positive and natural kinds of law. A system of natural law is one which is based on the way the real world is perceived to behave. For instance, the laws of physics describe how objects in the real world interact, so that physics can be seen to be a system of natural, physical law which never changes. If the laws of physical motion did change, we could expect to see the universe begin to fall apart before our eyes.

But just as it is possible to describe some of the ways in which the world seems to behave at a physical level, it may also be possible to describe some of the ways in which the world behaves at a non-physical, or 'spiritual', level. Aboriginal Law is grounded in a perception of this psychic level of natural behaviour. On that view, Aboriginal Law 'never changes and is valid for all people', because it implicitly describes the wider emotional, psychological and perhaps cognitive states of the world to which all human beings are subject, which means that Aboriginal Law is as natural (and as scientific) a system of law as physics. On this basis alone, Aboriginal Law is a very important system to understand.

Aboriginal Law refers to a complex relationship between humanity and land which extends to cover every aspect of life; to that extent it is what theorists call a 'complex system', in that it explains both the observer and the observed. In that sense the Law is both a science and a religion, in Western terms. It is a religion in that it explains both the origins and meaning of the cosmos (including the observer), and it is a science in that it does so rationally, and with empirical support. To this extent, Aboriginal Law differs from modern Western ideas of 'positive law'.

Western philosophy of law can be divided into 'natural' and 'positive' categories. Historically, the Western definition of natural law is 'that which nature, that is God himself, taught all living things' (Bracton). By the 19th century Darwin had driven a wedge between humanity and the last vestiges of useful religion, and this seems to have triggered a wealth of theories about practically everything

that moves. One of those theories (by John Austin) was the first positive theory of law.

According to Austin, law is not God-given but human-made, and it is effectively made by a legal sovereign, whoever or whatever that may turn out to be (Austin). The major differences between Austin's positive law and the old, natural theories of law is that positive law is capable of being legislated, amended and repealed by human agency, while natural law is not. In fact, legal positivists believe that there is no 'natural law' at all.

The Land is the Law

On those Western theoretical criteria, Aboriginal Law is natural law, in that if it was legislated at all, this was done not by humans, but by the spiritual ancestors of the Dreaming, so that Aboriginal Law is incapable of being added to, amended or repealed by any human agency. What this means is that Aboriginal Law is like a cognitive science or applied psychology—it doesn't deal with the actions of humans or the events which befall them, but *with what makes it possible for people to act purposively, and experience 'events'*. That is to say, the perfectability of human beings was never a concern for Aboriginal Law; rather this Law was/is always an attempt to understand what it is that makes us human. It was/is concerned with why and how it is that we act with purpose: where does this will come from? Why and how do we experience the events that occur in our lives? Why is the experience of one person different from that of another? Over millennia this understanding of the human experience in Australia has given rise to a form of law which Justice Blackburn, in a Northern Territory Land Rights case, described as

a subtle and elaborate system highly adapted to the country in which the people lead their lives, which provided a stable order of society and was remarkably free from the vagaries of personal whim or influence. If ever a system could be called 'a government of laws, and not of men', it is that shown in the evidence before me. (Blackburn)

In this sense Aboriginal Law could be said to be both an action guide to living and a guide to understanding reality itself, especially in relation to land as the basis for all meaning.

At this level of conception, Aboriginal Law is comparable to Buddhism, which is also a psychology of life. There is however a major difference: Buddhism seeks an *escape* from normal, waking consciousness, on the grounds that no matter how richly endowed, waking existence is an endless wheel of birth, suffering and death. By contrast, Aboriginal Law, which is located in land, *celebrates* life in all its ups and downs, using the 'downs' to point to moral formulae.

Exemplars

People's level of knowledge was (and still is) judged by objectively observable canons of behavioural excellence. When a person's level of knowledge can be objectively gauged by his or her perceived behaviour, then this is sufficient for any community to determine whose opinion should be listened to and whose should not, and to what extent. In such a system, those whose opinions are backed by consistently wise public behaviour will end up being listened to, and this will determine much of what that community considers to be 'correct' or 'lawful'.

This could not happen if those who were knowledgeable started to tell others in advance what they should or should not do. To do that would be to embark on a voyage of monarchy, with all that that entails. This is why knowledgeable Aboriginal people let others find things out for themselves. It is also why Aboriginal child-rearing methods allow such freedom to children, why Aboriginal people everywhere insist upon personal autonomy, why they never enslaved each other or instituted class or caste systems, why the community never needed an institutionalised judiciary. And it is what 'custodianship' means. *To allow this natural wisdom to assert itself within the limits of accumulated community experience and knowledge is what custodianship consists in.* Custodianship is thus a philosophy, not just a green solution to environmental degradation. In a sense, Aboriginal Law is 'grown' not 'made'—and this is also what makes it a system of *natural* law. The outcome of this approach to knowledge is that absolutely everyone in the traditional Aboriginal community was acknowledged to have something unique to offer, because of his or her spiritual identity and personal experience of life. Essential to this system is the fact that Aboriginal personal identity extends directly into land itself; this helps to explain why knowledgeable members of the Aboriginal community continue to assert that, *'the land is the Law'*.

What Westerners seem to have been unable to do so far is to recognise Aboriginal Law as a system of natural moral law which establishes an extended, spiritual identity between land and person. One reason for this is that jurists lack reliable evidence to show that there can be a system of natural law which is grounded at a non-physical level, yet which is as valid, and as universally binding, as physical theory. Although considerable efforts have been made to resolve this problem (the Australian Law Reform Commission Report No 31), an answer cannot come from within the framework of legal positivism itself (see Appendix).

What is needed therefore is an on-going consensus involving White Australian and Aboriginal jurists, custodians, philosophers, theologians and others sitting down together in order to discover how each of these logically opposing systems can nonetheless accommodate each other.

Conclusion

The world is immediate, not external, and we are all its custodians, as well as its observers. A culture which holds the immediate world at bay by objectifying it as the Observed System, thereby leaving it to the blinkered forces of the market place, will also be blind to the effects of doing so until those effects become quantifiable as, for example, acid rain, holes in the ozone layer and global economic recession. All the social forces which have led to this planetary crisis could have been anticipated in principle, but this would have required a richer metaphysics.

Aboriginal people are not against money, economics or private ownership, but they ask that there be a recognition that *ownership is a social act and therefore a spiritual act*. As such, it produces effects in the immediate world which show up sooner or later in the 'external' world. What will eventually emerge in a natural, habituated way is the embryonic form of an intact, collective spiritual identity for all Australians, which will inform and support our daily lives, our aspirations and our creative genius.

Mary Graham was born in Brisbane and grew up on the Gold Coast. She is a Kombu-merri person and is also affiliated with the Waka Waka group through her mother. She has lectured and tutored on Aboriginal history, politics, and comparative philosophy at the University of Queensland and at other educational institutions around the country. She was the Administrator of the Aboriginal and Islander Child Care Agency (AICCA) during the 1970s and has served on the Boards and Committees of many Aboriginal organisations. She has worked in Native Title negotiation with the Foundation for Aboriginal and Islander Research Action (FAIRA), was a member of the Council for Aboriginal Reconciliation during its first term, and was a member of the ATSIC Regional Council for South East Queensland for six years. She currently does research work with Kummara, an Aboriginal community development organization conducting a Stronger Indigenous Families project.

Acknowledgements

This essay was originally published in *Worldviews: Environment, Culture, Religion* 3 (1999): 105-118. It is reprinted here under license by permission of the publishers.

Appendix

Extract from Australian Law Reform Commission—Report No 31.

Report No 31 stated that Aboriginal customary laws did not reduce to a set of rules (p.202), that there existed no systematic account of customary law (p.99), and that Australian courts lacked organs with which to know and to deal with Aboriginal customary law (p. 631). The Commission issued a number of discussion papers during the course of its investigations and an extract from Discussion Paper No 17, issued in 1980, shows the direction already being taken by legal thinkers, concerning Aboriginal law:

For traditional Aboriginals, the law had no separate identity but was woven into the whole social fabric. There was no legal system in the European sense of separately identifiable institutions ... Aboriginal law does not have a separate system of legal rules. The question is not so much 'what is Aboriginal customary law?' as 'how do Aboriginals maintain order in their community?' or 'by what means are quarrels dealt with in Aboriginal communities?'

(Summary of A.L.R.C. discussion paper No 17:2.)

Works cited

- Austin, John. *The Province of Jurisprudence Determined*. [1832] London: Weidenfeld & Nicholson, 1954.
- Blackburn, Justice. *Milirrpum and others vs Nabalco Pty Ltd and the Commonwealth of Australia*. 17 Federal Law Report 267, 1970.
- Bracton, Henry de. *On the Laws and Customs of England*. [1268] Trans. Samuel E Thorne. Cambridge: published in association with the Seldon Society by the Belknap Press of Harvard University Press, 1968.
- Graham, Mary, Juanita Bailey and Lin Morrow. *CrossCultural Training Modules*. Adult and Community Education sector, Australian National Training Authority, 1993.