

**the law of obligation,
aboriginal ethics: australia
becoming, australia dreaming**

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THE PROPER WAY OR THE LAW, AND LOOKING AFTER COUNTRY

When the decision is taken by someone, or for and on behalf of someone, to depart from one world for another—continent, Country,¹ psyche or life force—what happens to the reflective self? This is not so much a question of fixed identity but of states of being. Where do Settlers and Indigenous people come from? This is not a question of locality, culture, or ethnicity, but of the reflective² self of both peoples in particular places in time. *Australia Becoming, Australia Dreaming*, is a narrative of the reflective self.

The beginning of human development laid out a path for/of becoming that comprised coherence, “a general feeling of confidence that one’s environment

is predictable”³, achieved only after great efforts of understanding Place, proportionality and predictability, which is

created through the sacralization of obligation and the putting of this obligation into practice via ceremonies, social structures, organizing principles, patterning (identity imprinting), laws, repetition of narratives. In its simplest form, this means actively looking after Land and the environment, especially with regard to its vitality and energy.⁴

Proportionality conveys an idea of measure, a calibration of judgement towards understanding both the physical and social environment. Measure although often thought of as only physical, can be thought of as an understanding of a person’s character, as in the statement ‘to take the measure of a person’.

Although not necessarily in linear sequence, coherence, proportionality and predictability helped to elucidate and refine the self’s or selves’ motive(s) for action and choice, and thereby helped to structure cohesive social practice. The organising principle that underpins the social structure also organises the means to achieve a particular desired end. A great deal of thoughtful consideration and effort goes into choosing the means to an end because tens of thousands of years of collective experience have shown that measured, well thought-out processes, along with good management of difference, lead to stability.

The distinction between the reflective or unreflective motive is a matter of degree; it is not a dichotomy, as the distinction does not rely on an ‘either/or’ division, or on the laws of excluded middle and non-contradiction. Nor is it a dualism, insofar as the two are not ontologically distinct. Rather, the reflective motive *emerges* from the ‘relational’, but this depends on how the relational has developed and been adapted over time for the individual, group, or community. The reflective motive is the first step toward understanding and relationality.

For the purposes of this paper, I assume in the first part that the self of both peoples (Indigenous peoples and settlers) is already the reflective self on the voyage to understanding difference. Settlers, following the path of becoming, travel the road ‘through a glass darkly’⁵ to arrive at the state of living and doing things in the ‘proper’⁶ way (Aboriginal), of right action. This leads to the ‘well-being’ of the individual or collective or a similar Western counterpart; *eudaimonia*, as described by Aristotle, and translated as well-being, happiness or human flourishing, to which all actions should aim. In Western philosophy the proper way is considered ethics, whereas in Aboriginal society, as far as it is known, there

is no equivalent term for ethics, this is because proper action comes from the external order internalised through collective empirical observation over tens of thousands of years, rather than abstract individualist thinking. The term ethics will be employed, but with the understanding that Aboriginal ethics encompasses more than simply applying principles of right action in order to *know* how to act. Similarly, as we will see, the use of the term ethics goes beyond being ‘brought up in fine habits’, so as to be a good person who takes the right course of action in a particular situation.

A reflective self is a communal self: a self that understands how communal acts affect those around them, both human and non-human, over time rather than being limited to an immediate relation of cause and effect. Reflectivity, in this sense, leads to a Custodial Ethic that orders the socio-political spheres. The reflective self, then, is not an individual self. “There is no Aboriginal equivalent to the Cartesian notion of ‘I think therefore I am’ but, if there were, it would be—‘I am *located* therefore I am’”.⁷ The self is not a God given soul, nor explained in reductionist materialist terms. Similarly, reflection is not a narcissist reflection of a fixed self, but rather, a part of the development of human beings arising from Place.

For Aboriginal people, Land is the source of morality and meaning. Our notions regarding the world, human beings and knowledge serve to ground a moral philosophy centred on the relationship with Land and people or *caring for country* and *caring for kin* (this has become a general saying among Aboriginal People countrywide).⁸ Our relationship with Land defines the core interest and conscience of Aboriginal society. Strictly speaking, it is difficult to talk about ethics outside of Land and one’s mob (including ancestors) because it is these two fundamental elements that underpin notions of proper conduct, proper way or right conduct, much more than any question, such as, ‘How shall one live?’, which is the way a Western individualist rationality (such as we see in Socrates) approaches the sphere of ethics.

Traditional Aboriginal Law/Lore⁹ is an imposing multi-dimensional world where ethics, although very important, forms only one dimension. This paper will not address this topic except to say that Aboriginal Law does not directly 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’.¹⁰ The more complex aspect of Aboriginal Law is that which explains phenomena or as Westerners would call it metaphysics; how the world came into being, the patterning of people

into the Land and, above all, the maintenance of balance in the world, because this is what keeps the whole of creation going. While the Law, in this broad sense, is about an Aboriginal understanding of the fundamental nature of reality, both physical and spiritual,¹¹ including what constitutes order in both realms, the moral philosophy of Aboriginal culture lays the foundations for the organising principle that governs the social and political structure, decision-making and conflict management systems that support the maintenance of balance. As a consequence, an elaborate and sublime system has developed over an immense period of time. Western positivism reduces complex ordering, away from the merits of morality, creating a punitive order divorced from ethics.

A CRITIQUE OF WESTERN ETHICS

For the West, traditional ethics are standards of behaviour that guide how human beings ought to act in any situation in which they may find themselves. Western applied ethics prescribes how a person or people should live and behave, what they should believe and how they should determine what the 'good' is. For philosophers and theologians, authority is derived from a range of sources, for example, Plato's Realm of the Forms (according to which knowledge is beyond space and time, unchanging), the Realm of the senses (changing or becoming), individual virtue (Aristotle), reason, and, of course, religion with its God or gods. All of which are abstract and divorced from the Land and relationships with it.

In the pre-Socratic days of philosophy, Parmenides (539-469 BCE) dreamt of a visit to a goddess who described to him the nature of the universe: a nature fundamentally fixed, finished and static. Around the same time, Heraclitus (540-475 BCE) expounded his understanding of the universe as one of constant flux, change and becoming. From humble beginnings great things grow, and the division between the ideas of Heraclitus and Parmenides spread like wildfire throughout the Western philosophical canon. Although the Greeks themselves disagreed about the ontological opposites of Becoming (Heraclitus) and Being (Parmenides), they may have started to appreciate some form of resolution between the two notions, if they had known about the Dreaming and Aboriginal ideas concerning the Law.

In Aboriginal Ethics, one has to start, as with everything else, from the perspective of the Land, and the relationship that Aboriginal societies have established and maintained with the Land, which informs Aboriginal ways of caring for country. The Land invented or created us with the help of Creator Ancestors of particular localities across this country. Place becomes of vital importance at the moment

of becoming, when humans become more than their purely physical self, which is a survivalist self. Narcissus in Greek mythology recognises himself when he first gazes into the water and sees his own reflection, but as the story goes, he becomes so mesmerised by his reflection he becomes completely alone in the world, cut off from all relationalist connect, he becomes pure ego—the absence of reflectivity. Recognition of self is the first step towards reflectivity, but in order to become fully and completely human we must also recognise our spiritual identity. Reflectivity is the moment of seeking completion of the self beyond a purely physical self, concerned only with survival. It is a process of understanding not only the self, but the self in relation to earth and others. The process of becoming is facilitated by reflectivity which allows humans to become fully and completely physical and spiritual Beings via a myriad of ways. Once a human becomes fully and completely human, an obligation to care for that which creates us arises. An important part of this relationalist obligation is autonomous regard. Autonomous regard (AR) is a major aspect of human interaction. Every person has physicality and spirituality, personhood and agency and is therefore an autonomous being. To maintain and protect ones' own autonomy we demonstrate regard (full respect) for each other or others. AR counters and/or disrupts the inclination towards survivalist tendencies—to see the other as a 'means to an end'. AR, forms an important part of the relationalist ethos, as it provides stability and security in human relations. The Land then becomes a template for political, social and ethical ordering, which taken together becomes culture.

As a consequence, Aboriginal people see Land as a moral entity with both physical and spiritual attributes that manifest in a myriad of life forms. The great and venerable age of Aboriginal people also manifests itself in human beings patterning themselves into the Land via the Law. The result is that well-known phrase which is both a form of protest and a philosophical worldview: The Land is the law.¹² This ethic, which grew out of the Land/Human relationship, can be thought of as a Custodial Ethic. This involves an obligation to look after the Land that nurtures us, the ancient reciprocal relationship with nature, an ethic of looking after, stewardship, caring for, rather than a survivalist ethos with its rivalry and competition over resources and structural conflicts enveloped in hierarchies of power.

This relationship with Land has led Aboriginal people to the formulation of proper behaviour and, subsequently, into ethical principles and values for engaging with one another. Examples include such behaviours as seeing the human spirit within, respecting the autonomy of the other, being non-judgmental, walking and talking

with the other as equals, being mindful of their safety, avoiding the shaming of others, and adoption of the reflective motive.

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.¹³

Together, these behaviours embody the positive approach of Aboriginal partnership and relations.

Ethics, therefore, becomes habituated, not idealised as it is for many other cultures. “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”.¹⁴ For Westerners, ownership (which emerged from within the *unreflective motive*—a shallow reasoning guiding paths chosen or behaviour displayed, found in the cult of individualism) is what makes modern Western economic activity possible and money valuable. It is also what makes inquiry possible; science and technology are seen as valuable because of the exploratory impulse, the urge to discovery and victory, and the accelerated trajectory towards goal seeking, which together, gradually diminish the importance of ethical considerations regarding actions and intent. There is an acknowledgement that moral/deontic principles are important but, more often than not, not so important that they prevent achieving the preferred End(s); this is especially so, in the case of Utilitarian ethics. As Richard Routley puts it, “utilitarianism, and consequentialist approaches more generally, have made it seem as if no deontic principle were firm, but all are provisional. This is entirely mistaken.”¹⁵ Therefore, ethics, in the context of Western cultural praxis, remains simply an ideal to strive towards, to discuss and to be occasionally concerned with. Given this, double standards (in both national and international contexts) have become the norm throughout the Western world.

EUDAIMONIA WITH ABORIGINAL CHARACTERISTICS

Aboriginal culture itself is highly ethical, insofar as it relies on an ethic of looking after, of stewardship, firstly towards the Land and then throughout society, giving rise to a unique civilisational culture, which has its own logic, philosophy, values and notions of social development. A summarised view of Aboriginal ethics encompasses not only appropriate social conduct, social and political structure of society, all knowledge (sacred and otherwise), spiritual obligations, but also includes systems of logic, time and space. Following is a list (by no means exhaustive) of collective values or Terms of Reference:

- The Obligation and Custodial Ethic—looking after country, looking after kin;
- Primacy of family—especially children and young people;
- Encourage the maintenance of harmonious relations and positive conflict management with Autonomous Regard;
- Careful management of ego¹⁶ to encourage non-egotism, i.e. no ‘big noting’;
- Knowledgeable people, including Elders, represent the Authority of the collective, and Power is diffused among the people, i.e. power and authority are not conflated together as in many other cultures;
- Maintaining organisational principles such as non-hierarchical structures with Men and Women in balance;
- Formal gender balance, recognition and respect—Men’s Business/Law and Women’s Business/Law;
- Being supportive of and upholding positive group dynamics and attending consensus decision making;
- Viewing and encouraging cultural knowledge and principles, such as Land, as moral entity and foundation of Aboriginal spiritual integrity;
- Accepting the primacy of Place, identity and autonomy as an organising principle;
- Aboriginal society is a civilisational culture (not civilisational state), i.e. a socially and politically ordered system with a self-regulated ecological, sacralised, stewardship Law of Obligations.

These terms/qualities underpin Aboriginal social praxis and form the ontological and epistemological basis of existence. In this sense, Aboriginal Law/Aboriginal civilisation 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. This results in a highly complex but ordered, elegant understanding of existence, far removed from the chaotic and dangerous world of the short-term survivalist ethos.

LOOKING AFTER KIN—PEOPLE

By having Land-based principles, Aboriginal people avoid performative, hubristic moralising. This was achieved through reciprocal behaviour, protocols and attitudes imbedded in social praxis, with the result that the inclination to selfish, performative, or hubristic behaviour was strongly tempered by more thoughtful and considered conduct; so much so that ethical behaviour becomes simply a part of everyday actions without this behaviour being explicitly labelled as ethical.

Humans are not seen as being intrinsically either good or bad, and perfectibility in life is not the aim. Neither is salvation in the afterlife. The Aboriginal view of human nature or of being human is that ethics and proper behaviour are like any other skill to be learned. As with the basic skills of walking and talking, one is socialised into both seeing and experiencing the Land as a sacred entity, and into forming the accompanying reciprocal relationship with Land. This involves a physical, active, emotional and spiritual caring for and about the life force in all its variations (e.g., flora, fauna, insects, Landscape and the elements), all of which are accompanied by their own stories. Maintaining reciprocal relations with others is learned at the same time so that society becomes, in a natural way, a non-ego based civilisational culture. A civilisation culture contrasts with a civilisation state which is the system of governance of many other cultures including the West. The savage/civilised narrative as a vehicle for colonisation has historically been one of dehumanisation and continues to play its role in othering those deemed savage or close to nature. A reimagining of the term civilisation is needed. 'Civilisation' hence in this paper means a stage in social development marked by coherence, proportionality, and stability. 'Civilisational' means tending to produce or lead to such a stage of civilisation now reimagined. According to this definition, the West has a significant way to go.

The effect of the management of the ego, combined with the ethical obligations of learning and developing skills, is to inculcate a sense of communal, rather than individual identity, and, most importantly, *to encourage reflective engagement in all activities*. Such a reflective effort, which in Western culture culminates in science, results in Aboriginal culture having a deep understanding of human nature, action and intent. In changing circumstances and conditions, such a reflective

effort also results in what the potential, spirit, disposition and character of that human nature could be.

Ethics from this view is far more than conscience, and more than a cognitive activity that emphasises and evaluates the different aspects of a person's position or actions, and more than the generalised obligations people have in any situation. When faced with a new situation, context, perspective, or problem, instead of proceeding in the manner of a purely physical individual, i.e. concerning myself with only what I need (the unreflective motive), the Aboriginal reflective motive is closer to: How should I proceed with what is needed or what needs to be done in relation to the Custodial Ethic?

This approach encompasses four basic assumptions:

1. We are not alone in the world: even if other humans are absent, there may be other sentient beings present and these have meaning for Aboriginal people. Aboriginal people are not discrete entities living in a hostile environment, neither are they conscious isolates searching for meaning,
2. The babe in arms requires more than simply its physical needs; it requires in addition tenderness, affection and speech—in short, it requires a relational world.
3. For Aboriginal people, standards of behaviour are preceded and shaped by the deep reflective motive, which is akin to long-term strategic thinking, that in turn leads one to stewardship thinking which guides and influences people not only to act positively but to do so willingly. This is preferred to short-term tactical thinking that can lead to instability and disregard for others.
4. Rejection of the survivalist ethos: a form of self-orientation where the self is placed at a distance from others because all environments—natural, human, and social—are seen as potentially hostile, with the consequence that the self has to arm itself psychically and physically to keep 'safe'. Social and technological developments ensue, and then praxis follows, which includes the normalisation of competitiveness.

In Aboriginal culture, the survivalist ethos has been countered by the deep reflective motive, which comes from the sharing of resources, fulfilling one's social obligations, the maintenance of good relations and diplomatic traditions.

The first outcome of this reflection—the importance of reciprocity—arises from relating to Land/Nature. This is the great life force that we can touch and feel, but which also looks after all our physical, emotional and spiritual needs. From this, the following understandings emerge:

- that reciprocity is a vital, creative element in all relationships including those between humans;
- that such an approach is both sustainable and moral and creates a moral environment in which to live;
- that significant meaning and power resides in the notion of Place through the continual enactment of protocols, ritual and ceremony;
- that such a respectful relationship with both Land and Place becomes the template for human relationship and social structure; and finally
- that a non-ego based social and political system is one that encourages people to respect each other's autonomy, helps people realise their full potential, while at the same time looking after Land and Place.

Traditional Western approaches to science and anthropology assume many Indigenous peoples can be summed up in statements such as: 'Aboriginal peoples are primitive hunter-gatherer societies struggling to survive in a harsh, cruel world'. Such statements, however, say more about the people who hold such a view, one that is firmly based on the values of the survivalist ethos. The result of this ethos is a society where human relations are operating in a permanent state of uncertainty and anxiety, and where the environment is to be conquered or brought under control for reasons of security. But this view of security results in the opposite, as security is obtained through the creation and maintenance of a stable society, not through control.

The great understanding that comes from a non-survivalist, non-ego based Aboriginal society is the understanding that an individual's needs *do not* take precedence over the needs of others. This is not to say that the group is more important than the individual, nor is it a competition for resources between the group/others and the individual, but rather that the group is the facilitator of Being via Land; Being comes from and is shared by and with others (including the spirit of others), which first comes from the Land.

LOOKING AFTER KIN—LOOKING AFTER OTHERS

Aboriginal Australia is a unique civilisational culture which has its own logic, philosophy, values and notions of social development that have been in existence for many tens of thousands of years. Aboriginal peoples take the view that you cannot force individuals to be ethical being, but by taking others' security into account, you are engaged in looking after your own, this creates a self-regulating social system based on doing. Practiced self-regulation is based on social responsibility, not on an isolated individual's obedience, belief, faith, or fear of a higher power. The perspective of collective responsibility and obligation to look after Land, family and community is vital in transcending any inclination to gain advantage at the expense of others.

This relationalist practice became concentrated through the intrinsic meaning of Place, that is, a particular locality (or localities) of Land within a particular region. Here 'Land' includes the Landscape and all living things within it, humans, spirits, animals, air, sea, rivers, moon, stars, birds, insects, the wind, language, dreams, etc. Place, then, comes to occupy the core interest, conscience and spirit of Aboriginal Culture. Collective values become the template for looking after the whole of Aboriginal society; in fact, they become part of the organising principle of Aboriginal society.

According to Aboriginal principles, each Place or Region is autonomous. No one group dominates another; there is no hierarchy of Places or Regions or of the people within the localities. It is a system of balance between the Regions, with no centralising power to enforce decisions or agreements—nothing akin to police or armies. In terms of respecting values, the aim of this organising principle is to respect and protect the integrity of Regional, Clan/group and individual values and obligations. Aboriginal people have a holistic tradition that could be referred to as a Custodial Ethic in contrast to the individualistic one that dominates much of the European West. The holistic tradition of Aboriginal peoples arguably produces better results in promoting the wellbeing, security and safety of society.

Consensus decision-making is practised throughout Aboriginal culture, it is an attempt to maintain respectful relations. Aboriginal peoples have found that consensus decision making avoids the ideologising of conflict, domination, and coercive agreement making. This means no individual can prevail if he or she deviates too much from the group consensus. Indeed, 'leader' is an inappropriate term because, historically, the social and political structure in place in Aboriginal societies is not hierarchical but lateral, where men and women have their own social, political, spiritual and psychological place. Elders constitute a soft hierarchy

wherein they are an authority, but they do not rule in the manner of monarchies or other Western leaders. There is no command obedience system.

There is a difference between Aboriginal ways and Western ways of organising social systems. The organising principle that underpins Aboriginal social systems includes a different approach to achieving an outcome, i.e. the means to achieve a particular desired end. The collective experience of tens of thousands of years of Aboriginal existence and understanding of Place goes into choosing the means to an end. Such wealth of experience has shown that proportional, well thought-out responses and processes, along with proper management of difference, leads to social and environmental stability. Looking at the Aboriginal relationship with Land combined with the way Aboriginal society is organised, one can identify a sound ethical strategy and how it works towards the long-term aim of stability in social praxis in relation to environmental regard and safeguards.

Instead of the short-term tactical approach of competitiveness, warring over resources and territorial power and control, Aboriginal people essentially take the long view of looking after the interests of the young and future generations, rather than the short-term end of seeking advantage for the few at the expense of the many. The aim is always to achieve stability, efficiency and harmony rather than advantage over others. This is accomplished through the combination of two Principles:

1. the ethical principle of maintaining a respectful, nurturing relationship with Land, Place and community, and
2. the organising governance principle based on autonomy and identity of Place.

Both principles together form the Custodial Ethic. If the first principle stands alone, hard as it is to make such assumptions, the outcome might be a kind of nature worshipping religion with competitive elements. The second principle on its own, despite its non-judgmental quality, could nonetheless lead to a multi-polar world of suspicion and rivalry. Either of the two principles on their own would not lead to a non-ego-based society; it is in combining and melding together the two principles that the Custodial Ethic emerges. Each is a counter to the other, so that together they hold each other in balance.

The meaning of the narrative underlying the first principle is that *we are not alone*

in the world. Land created humans; whether we understand this in maternal terms or not, it looks after us, and we are obliged to look after it. From this, spiritual significance and meaning arises, and more obligations develop with particularised responsibilities according to locality. In addition to this, the deepening of feeling coalesces with practices of stewardship, and ethics starts to grow in a natural, organic way. The meaning of the narrative underlying the second principle is that the hierarchical is not the only natural structure of all living organisms. The lateral is more akin to the collaborative, cooperative building of authentic relationships, and not simply within the narrow confines of something like the “prisoners’ dilemma” argument.¹⁷

The Aboriginal approach to sustainable social and political structure is that a stable world must be in place for young people and future generations; that while the natural environment may have times of uncertainty (earthquakes, ice ages, etc.), the human environment must not be allowed to become fraught and uncertain it must retain its stability throughout the changing natural conditions. If people feel that their government holds their best interests in the sense of security and safety policies and practices, then confidence is retained. People need to maintain confidence in their system. Compare this view to the actual current situation in some communities where the administrative systems in place are generally not controlled by Aboriginal terms of reference, and the chosen or imposed solutions to social problems are nearly always non-Aboriginal and thus unstable and unsustainable.

ABORIGINAL APPROACHES TO PEACE AND CONFLICT: STRATEGIES AND TACTICS

Tactics, by definition, are short-term in scope; the term is used by the military to describe the art or science of organising and manoeuvring troops to achieve an immediate aim. The term ‘strategy’, on the other hand, when used in a military context, describes the science of war on a larger scale. Strategies are what are put into place to win an entire war. In a non-military context, strategies are plans of action or conduct used to achieve a long-term goal. Evolutionarily speaking, strategies are adaptations that advance viability.

Aboriginal people are more strategists than tacticians. This explains why we tend not to embrace ideologies, and this is why the Aboriginal Provisional Government (APG) did not go very far.¹⁸ It is also why Aboriginal people did not, in the formal sense, have a religion as such. There was no need for any one entity/personage, physical or spiritual, to tell or lead individuals or collectives to believe, act or

proceed in a particular way. No-one was searching for a spiritual truth; it was already present all around, immanent.

The best and most brilliant all-round strategy Aboriginal people have is the old saying *look after country—look after kin*: the Custodial Ethic. Following the structural form and the behaviour engendered by the Custodial Ethic, led Aboriginal people to not see others as ‘the other’; that is, the essential humanity of others was never hidden from view. We see their humanity clearly and easily, but they (non-Aboriginal people) sadly do not easily see ours.

Ethics should be seen as a normal part of human development not as an individual choice to adopt a self-developing, maturing process. The importance of embedding ethics in all walks of life is revealed through an understanding of relationality. Western schools and universities teach separation and categorisation of knowledge, delivered in the form of subjects; discrete learning areas. But all knowledge has practical applications and when knowledge is divorced from ethics, as it so often is, the results are often devastating, as Jared Field attests: “Our universities fail stupendously when they don’t teach ethical and moral responsibility”.¹⁹ Field is a Gomerioi man and a McKenzie Fellow at the University of Melbourne, who has the following to say about the current state of university education:

I can already hear my colleagues in the science faculty moaning at my suggestion of their inadequacies: “We give students tools, what they do with it is up to them!”, “I teach chemistry; why should I care about Indigenous culture?” or even, “I’m a mathematician, why should I discuss ethics with my students?”²⁰

Learning, doing and ethics are not discrete areas. The developing ethical self is a calibrated being with an autonomous regard identity; he or she *grows into*, across time, a fully rounded human being—not just an anatomically correct, reflective and identifiable human being. The process has nothing to do with pursuing virtue, perfecting goodness or seeking approval. In this regard, calibrating is a proportionality exercise towards the singularity, i.e. the Land is the source of the Law.

We still adhere to our own logic, i.e. other people’s perspectives are as valid as our own even though we are obliged to defend our own side/party in a contested issue. People try very hard not to make other disputants lose face or be humiliated, even

though we have to make decisions, argue cases, settle disputes, make agreements etc., and a lot of effort is put into mediation or trying to get along. Aboriginal logic is unique in that it helps us (collectively) to suspend judgement; this is not to say that people cannot be opinionated, adamant or highly and loudly critical. But we tend not to make ideological arguments that force people into holding fixed positions, thus, making conflict worse.

The over-riding *raison d'être* for the development of this system is to ensure a stable, efficient environment for the safety, acquisition and receiving of knowledge, and transformative dynamic of growth for everyone, but especially for young people and future generations. Further, this rationale posits that this can be done without resorting to the short-term tactics of advantage over others, like opportunism, dishonourable conduct, selfish ambition, possessiveness. Instead, the development of empathy is a part of the process of socialisation as is the development of compassion, understanding, sympathy, mercy, the elation of giving and sharing, and other characteristics of empathetic relationship building. These are all qualities in which Aboriginal people have great skill and understanding.

Feeling and emotional knowing bring with them motivation in the form of being moved by the other's situation, not simply being aware of that situation. Being able to conceive of other moral contexts and being able to understand more deeply the other people involved are major achievements in moral development. This is where the term 'poor-fella' comes from; it means humans are not intrinsically good or bad, but, rather, they are vulnerable beings tossed this way and that by fate.

Although Justice Blackburn, in a Northern Territory Land Rights case, was describing Aboriginal Law in the following statement, he could have been describing Aboriginal civilisation in general:

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 were 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.²¹

To put things in a Greek way of thinking, we might say that *Aboriginal people have the integrity and endurance of the Stoics but with a sense of humour.*

EQUILIBRIUM OR BALANCE

The Aboriginal logic supporting the ethics we have referred to demonstrates two important points. The first is the tendency of the group (Clans/Nations) to locate and accept one another's distinctiveness or singularity; not synthesise, not unify, not even necessarily agree on matters, but to accept that each identity belongs wholly to itself. The second is the continuous adherence to balanced social and political systems that enhance this distinctiveness.

A shallow reading of this system is to suggest it is simply 'tribalism', but in the Aboriginal context it is far more complex. These balanced relations between groups continue to be strengthened by protocols, diplomatic traditions, kinship arrangements, and simply by constant acknowledgement of such by Aboriginal people across the country. Despite the coming of colonialism with its state violence, resulting in social dislocation and lack of formal respect for and recognition of Aboriginal people, Aboriginal people still do not theorise conflict with the state. And despite the imposition of rigidly hierarchical government and governance systems of control of Aboriginal people—families, identities, movements, and even the few non-aggressive political attempts at an independent life—Aboriginal people continue to plan and work willingly with the Australian mainstream. Take the following example which references the 2012 Northern Territory Supreme Court case of *R v Yakayaka and Djambuy* whereby, a Yolngu couple were convicted but their sentence was suspended and supervised by the Aboriginal community:

This is the first time in a long time that BaLanda (European) and Yolngu laws have worked together like this. The lesson is in finding a common path to achieve a commonly desired outcome—increased community safety by making the law more relevant and meaningful for Yolngu. *Yolngu are not asking for a separate system. This is about creating a dialogue between the two systems.*²²

Walking together, working together, talking with each other; Aboriginal people use these phrases quite often, implying a disposition and readiness for equal status in any activity (which is rarely recognised), although it would not be quite correct to say the term 'equality' which has Western political connotations. 'Balance' is arguably a more accurate term as it contains qualities such as equilibrium and congruence.

This ongoing traditionally balanced approach to imposed and internal conflict

(and conflict management) extends to decision-making (not democratic but consensual), social order (lateral not hierarchical), gender relations (separate but equal/balanced), and protocols (permanent standing procedures for facilitating peaceful relations).

PROPER WAYS AND CULTURE NOW

The discussion to this point is an attempt to describe how Aboriginal people have developed the kind of ethics we have. In addition, it demonstrates that our ethical system is sustainable and rational. The challenge we have is to answer the following question: how should Aboriginal people ensure that we continue with this system in the kind of world we now inhabit?

As Gayatri Chakravorty Spivak explains it, “Ethics are not just a problem of knowledge but a call to a relationship”.²³ But what kind of relationship would this be? The strong will to power that brings about forced unifications also normalises, commodifies and even romanticises the modernising process, regardless of how much chaos it brings to those undergoing change. If part of the process of change involves the gradual building of our own institutions, being the creators and writers of our own future narrative—including social and political aspirations, policies, plans, community and economic development—then all the more reason to strengthen the ethical basis of our decision making governance systems, social relations, cultural activities and the careful awareness of being good character examples for our young people.

Perhaps, then, there should be a discussion or conversation about the overall direction we want to follow or should follow in the future. Should we aim for Aboriginal Affairs being run and controlled entirely by Aboriginal people? Or should it continue to be a shared responsibility between Aboriginal peoples and non-Aboriginal governments, keeping in mind that governments are not ethical entities and do not have friends or relationships, but only interests? And, more importantly, what kind of path do we choose so as to achieve positive change? That is, what values will we adhere to?

Aboriginal ethics are integral to Aboriginal social values, order, meaning and praxis. As such, they are an intrinsic part of our cultural heritage, and, therefore, as valuable as any other cultural action, expression and knowledge. Whatever the path chosen, it is to be hoped that our ethics remain a crucial part of the life we live, the work we do, the plans we make and the hopes we have.

GLOSSARY

Calibration: Measuring, weighing and aligning—seeking proportionality, like the calibrating mechanism of a weapon. Examining how long language will take to change, e.g. will the terms Settlers and Indigenous people always be with us? Estimating.

Consensus: The relational ethos is the willing agreement among equals, constructed through dialogic consensus. It is not parliamentary democracy or wringing concessions out of another as in wage negotiations. It is actually the state of ‘feeling together’ or a ‘common feeling’. The Settler/Western political process is adversarial—elections are fought, issues are debated, and goals are won. Aboriginal style consensus is actually peace cultivation—a process where participants are being treated equitably is a peace process. Settlers and Indigenous people alike share a repertoire of feelings and emotional states, which are a natural kind of equality, and that means that skilled people on both sides can manage the consensus process.

Land: Land with the small ‘l’ is the raw material, the soil, dust, plants that grow out of it. Land with a capital ‘L’ is country, it is someone’s responsibility and obligation.

Law: “Many of our First Nations legal systems are embodied in stories and songs. Our ancient laws were not written down; knowledge of law came through living, singing and storytelling. Law is lived, sung, danced, painted, eaten and in the walking of ruwe. Law inheres in all things and is alive in all things, but these days it is an ongoing struggle to keep many things alive in the face of the attempts to bury our law ways as a part of the ongoing colonial project.”²⁴

Lore: Creative narrative, dreaming story.

Obligation: Obligations here is meant not the in legal sense, but in a more relationalist way encompassing not just humans and other than humans but all things in a complex contextual way that extends across time, culture and geography.

Proper: The proper way is the lawful way. It is a concept that is both practice and principled. “I would argue that for ‘proper’ dialogue to begin, we need to begin again, from the time Cook set foot upon our shores. Cook needs to walk back in time, holding the flag in his hand, row back to his ship, and wait there, wait there for the old people to sing him a welcoming to ruwe. Then he needs to sit down

and wait for the smoking and the cleansing of his spirit. Then the teaching could begin. Cook could learn the protocols for him to observe in his coming to our ruwe. He could learn that there was already law, and that it was in songs and the Land. For him to come into that place, he would have to learn the ‘proper’ way to come to ruwe.”²⁵

Vitality: The vital life force that enacts/triggers self-realisation.

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NOTES

1. Aboriginal People refer to Country and Land with capital letters as they are terms that denote the sacralising of country. This negates the need to correct the term, it is a redefining of the term to give back spiritual meaning to the Land.
2. As Bozalek and Zembylas explain, reflectivity is commonly taken to mean, “a metaphor to express an inner mental activity” (Bozalek, V. & Zembylas, M., 2017, “Diffraction or reflection? Sketching the Contours of Two Methodologies in Educational Research, *International Journal of Qualitative Studies in Education*, 30:2, 111-127, 112), however, it is not used in this sense here, and therefore, escapes the Posthumanism troubling. Posthuman means post-liberal human (or, more generally, beyond/after humanism that affirms human agency and freedom or traditional notions of ‘human’ and ‘human nature’), but Aboriginal philosophy is pre-liberal human, which has led some Indigenous scholars, such as Zoe Todd, to criticise those “writing and thinking about the climate, ontologies, our shared engagements with the world without being aware of competing or similar discourses happening outside of the rock-star arenas of Euro-Western thought” (Todd, Zoe, 2016, “An Indigenous Feminist’s Take On The Ontological Turn: ‘Ontology’ Is Just Another Word For Colonialism”, *Journal of Historical Sociology*, issue 29, no. 1, 4–22, 5).
3. Graham, Mary, 2014, “Aboriginal Notions of Relationality and Positionalism: A Reply to Weber”, *Global Discourse*, 4:1, 19.
4. Graham, 2014, *Aboriginal Notions...*, 19.
5. The phrase appears in both Plato and later the Bible.
6. See glossary for definition.
7. Graham, 2014, *Aboriginal Notions...*, 18.
8. “Aboriginal caring for the Land is equivalent to caring for one’s own body; it is an act of self-preservation and self-protection, and it engages a deep knowledge of our interdependency” (Watson, Irene, 2009, “Sovereign Spaces, Caring for Country, and the Homeless Position of Aboriginal Peoples”, *South Atlantic Quarterly*, 108:1, 49).
9. See glossary for definition.
10. Graham, Mary, 1999, “Some Thoughts about the Philosophical Underpinnings of Aboriginal Worldviews”, *Worldviews: Global religions, culture, and ecology*, 3:2, 105-118. Aboriginal Law is not reductionist it is not concerned with punitive judgement but rather with seeking to understand the why of action in a way that is closer to cognitive science or applied psychology than it is to Western legal systems. Such a calibration of Law allows for human behaviours such as ‘disturbing the peace’ that are outlawed in the West. A different view of peace follows also. For further differences between Western and Aboriginal Law see also: Watson, Irene, 2015, *First Nations Peoples, Colonialism and International Law: Raw Law*, Routledge, New York.
11. Akin to ethics, ‘spirit’ is a complex term that goes beyond any Western religious notions of the concept and would be a paper in itself.
12. Black, Chris, 2010, *The land is the Source of the Law: A Dialogic Encounter with Indigenous*

Jurisprudence, Routledge, New York.

13. Graham, 1999, *Some Thoughts...*, 108.
14. Graham, 1999, *Some Thoughts...*, 8.
15. Routley, Richard, 1984, "On the Alleged Inconsistency, Moral Insensitivity and Fanaticism of Pacifism:", *Inquiry*, 27:1-4, 123.
16. The ego is seen like a potentially volatile substance to be treated with something like a combination of caring stewardship, referee-like supervision and watchful guardianship.
17. Axelrod, Robert, 2006, *The Evolution of Cooperation* (Revised ed.), Perseus Books Group, New York. In the original formulation of the prisoner's dilemma, two prisoners are questioned separately over their alleged involvement in a bank robbery. The prosecutor, anxious to convict at least one of them, offers each of them the following deal (both are aware that the other is being offered the same deal). If both prisoners refuse to confess, then both will receive a two-year sentence. If one confesses (making it easier for the prosecutor to convict the accomplice) and the other remains silent, then the prisoner who confesses walks away free whilst the accomplice gets five years in jail. If both confess, both receive sentences of four years.
18. The APG was a political movement in the 1990's that fought for the rights of Aboriginal peoples.
19. Field, Jared, 2020, "Rio Tinto Blasting a Sacred Aboriginal Site Should Make Scientists Ask 'Am I Being a Good Ancestor?'" , *The Guardian*, (June, 2020), <https://www.theguardian.com/commentisfree/2020/jun/05/rio-tinto-blasting-a-sacred-aboriginal-site-should-make-scientists-ask-am-i-being-a-good-ancestor>
20. Field, 2020, *Rio Tinto...*
21. Blackburn, Richard, 1971, *Milirrpum v. Nabalco Pty. Ltd. and the Commonwealth of Australia: (Gove Land Rights case): a claim by Aborigines that their interests in certain Land had been invaded unlawfully by the defendants: Judgement of the Honourable Mr. Justice Blackburn*. Law Book Co, 267.
22. Gosford, Bob, 2014, "Djambuy's case and the recognition of Aboriginal customary Law", *Crikey*, (February, 2014), <https://blogs.crikey.com.au/northern/2014/02/06/djambuys-case-and-the-recognition-of-aboriginal-customary-law/>
23. Spivak, Gayatri, 1996, *The Spivak reader: selected works of Gayatri Chakravorty Spivak*, (eds.) Landry, D. & MacLean, G., Routledge, New York, 5.
24. Watson, Irene, 2015, *First Nations Peoples, Colonialism and International Law: Raw Law*, Routledge, New York, 12.
25. Watson, Irene, 2009, *Sovereign Spaces...*, 160.