

CHAPTER 10

The end of the journey: A camp of contemporary concerns

And so the *logos* has been revealed: *the Land is the Law*. This dialogical encounter with Indigenous jurisprudence has opened an ancient, but repressed and continuously ignored, paradigm in legal theory – a *logos* posited in Land. I will now revise that jurisprudence and its theoretical shape and pattern, as developed through my *talngai-gawarima* jurisprudential structure. This structure has shaped the book into a journey through a circle of camps, in which a *gawarima* was told and the *talngai* was shone on the *gawarima* through a series of concentric circles. The engagement with these circles took the reader into three rings of meaning: the outermost ring, reflecting the cosmology within which the knowledge of the *gawarima* is situated; the middle ring, showing the system of law in which the knowledge is managed; and the innermost ring, in which individuals ascertain their rights and responsibilities. The knowledge outcome of this jurisprudence, and these journeys, was the realization that the Land is the Law and that Law is sacred in its content, healing in its application and, most importantly, leads the individual into lawful behaviour, in which they carry out their responsibilities and in turn gain natural rights.

This encounter with an Indigenous jurisprudence is not intended to decry a missed opportunity to engage with a fossilized law built on pay-back and customary lore; rather, it is an opportunity to experience a timely legal paradigm that posits itself in the ‘remembrance of the past’ and its ‘present applicability’. It is, therefore, a timely theory that can help to

shape and pattern laws relating to the most pressing issue at the time of writing this book: the imbalance of the *Djang* – or, as it is articulated in the West, *climate change*.

It is this recognition of the imbalance that allows me to integrate one last layer of meaning into my book – one that gives purpose to its writing other than to articulate a theory of an oppositional political fight between Indigenous and non-Indigenous. This layer posits the *talngai-gawarima* jurisprudence as a useful binary jurisprudence to that which presently theorizes the Rule of Law, which regulates the laws that have fostered the imbalance of the *Djang* and so caused the current unpredictable climatic conditions. Climatic conditions in the past have been reasonably predictable and so validated the regulatory system of law and its economic imperative; however, there is a new story of Land being told – one in which the present economic imperative is no longer in balance with the Land. This imbalance calls for a reassessment of the legal system that regulates such imbalances, a reassessment through another law that can ‘witness’ its regulatory behaviour. That ‘witnessing law’ I am advocating should comprise the Indigenous Law systems of each country. This advocacy, however, does not mean a digging up of the anthropological past or the present Western-constructed discourse of the ‘politically correct’, but rather a refocusing of the jurisprudence towards the ‘rights’ of the Land and the ‘responsibilities’ of the human towards the Land. Therefore, this book ends with what basically amounts to a diagnosis of the cause of climate change. It provides a prescription for global health – a prescription that offers an alternative legal consideration when it comes to approaching the climatic crisis.

In making this assertion, I am validating the rationale of the Senior Law Men who have turned to writing, to literary inscription, to get their ‘urgent’ message out – that is, that humans must pay attention to the *Djang*. That *Djang*, I would argue, is climate change at its most fundamental – climate change is an imbalance of the *Djang* and the result of a legal regime that has seen fit to move its central ethos from that of Land to that of the human. Law that is posited in the ‘rights’ of the Land has been moved to law that is posited in the ‘rights’ of humans. No longer is Law sought out through observation of the patterns of Land (such as in cultivation societies), but rather is articulated through a human or community engagement with the resources of the Land. In such a shift, Land is no longer the *source* of the Law, but rather has become a *resource*. That is, it has become privatized and therefore disconnected from its ‘commons’ nature. Its primordial energy, as Wolcher (2004) asserts, is moved from being a *physis* of the cosmos to that of the phantasmic Mother Nature. This shift, as I argued in my exploration

of SLM Mowaljarlai's Ngarinyin cosmology, is a result of the two choices humans would seem to have:

[T]hen the Snake uncoiled and stretched out. She became Midjelna, 'the one that unwinds her rings and stretches out looking'. Her body was sprouting with a kingdom of living nature. From here she would take over from the Creator. She would persuade man to reproduce by sexual intercourse only, without the spirit portion that put him under the Law of the Universe as Wandjina man. Midjelna offered independence, joint management and knowledge of her own realm and powers – she offered the earth.

Wallanganda came thundering down on her, 'Wandjat! You go out of my sight!' and he said, 'From now on you do your own thing, and don't come back into my territory! Don't think you can make creatures just with sex, without dreaming spirit-part into them!'

(Mowaljarlai and Malnic 1993: 142–43)

This ancient narrative is not about a spiritual quest or the Garden of Eden intellectual dilemma, but rather a quest of law. The narrative points directly to choice – an ongoing choice, not an either/or one. The choice, however, prefigures the age of the phallus – destined to suffer the Oedipus complex and with it the phantasmic motif of Nature as Mother (or seductress). In this trajectory, *Midjelna* (Wandjat) becomes the archetype of later incarnations: Kali, Eve or Spider Woman. The alternative to this human-centred creation is the original ordering of Creation, an order in which Land is Law and the pattern of Law is posited in the Land. In other words, it is a giver of place, life, health and Law.

The connection between Law and health is vital and necessary, as this book has argued. Not that the present legal regime in Australia is much concerned with health – indeed, it is quite the opposite. For Australia is one of the highest *legally* regulated polluters on the planet,¹ its economy turning on the extraction of raw materials *for* pollution as much *as* pollution. Solutions to date have centred on economic concerns such as the Stern Review (Stern 2007). This book offers an ancient and alternative way of looking at this problem – a *lex* that offers alternative approaches to the problems, as discussed in Camp 4:

The pattern is not a hierarchy. The pattern is a system of relationship. And this is what Mowaljarlai is trying to teach us, about *wurnan*.

It is a system of relationship, the way we related to each other, to species, to land. And when we are in relationship there are no bosses, there are no rulers. Everybody gives and receives in a structured relationship which comes from the land. The power and the authority of that come from the land, not from elected people and not from any decision-making structures within the community.

(Mowaljarlai 1995)

Furthermore, it calls for complementary legal regimes to manage the situation – the dyadic approach, as found in the Law of Relationship. It is important that such law be seen as complementary, as this book has shown it is the Law of Relationship that brings about constructive management of land. Therefore, Indigenous law must be given equal standing with Australian common law on the issue. This approach might not only address the problem of pollution, but will go to the core of the racial divide in Australia, enlisting but also hailing the Indigenous people from their epistemology rather than the ‘attempts’ at consultation that have amounted to the assimilation of Indigenous knowledge, in turn disempowering that knowledge and the people who are charged with holding and guarding it.

This concluding camp is written with an emphasis on the ‘applied’ – which also calls for another paradigm shift in relation to women and their law. This call has been misread by feminism, as Paula Gunn Allen (1992) suggests, as meaning equal rights in a man’s world, a gender-neutral legal status within a patrilineal regime. This book, however, has argued for a fully gendered legal system – that is, Women’s Law and Men’s Law. As Allen (1992: 262) asserts in relation to male axis orientations:

Strange things begin to happen when the focus in American Indian literary studies is shifted from a male to a female axis. One of the major results of the shift is that the materials become centred on continuance rather than on extinction. This is true for both traditional tribal literatures and contemporary poetry . . . The shift from pessimism to optimism, from despair to hope is so dramatic that one wonders if the focus on male traditions and history that has characterized the whole field of American Indian literature and lore was not part of the plot to exterminate Native American.

I do not fully agree with Allen’s conspiracy theory, but it does offer food for thought to the historical role of the male domain – men’s business as hunters and warriors, in which near-death experiences are part of their

initiation trauma, must surely lead to an obsession with death and decline. This obsession is not exclusive to male Indigenous, but is also endemic to Western males, whose founding narratives are historically centred on invasion or battle. Therefore, it is simply a matter of commonsense that a jurisprudence offering ‘continuity’ or ‘creative’ *logos* should be brought to the fore. This is especially the case given the present context of climate change – itself about the impending death of the planet. Therefore, its opposite is needed – that is, ‘women’s business’, the domain of the creative, nurturing and productive healing that is an essential part of the balance of Law and the healing of the Land.

This also explains why the later camps all end with a focus on women’s business and Law. This is meant as a call to Indigenous women to honour and implement the feminine domain of their Law. For an imbalance in nature is the central issue for Indigenous people – and, indeed, all people. That objective – the restoration of balance to the Land – should be their focus, rather than critiquing or fighting with what MacNeil (2007: 14) describes as an ‘ancient patrilineal regime’. This regime has subjugated Indigenous leaders into relegating Indigenous women into the same categories as those used in the West and, unfortunately, using the same rhetoric, which has been referenced throughout the book by the work of Taiaiake Alfred (1999) and his advocacy for change among Indigenous male leaders. This ‘reflective’ place of woman in the Western legal regime dispossesses women of their Law and their original ‘balancing’ role as equal partners within an overarching Law of Relationship.

This final camp contextualizes my theory by setting it within an Indigenous modernity and focusing on the necessary recognition of women’s Law. For without that legal balancing, there can be no restoration of imbalance of the *Djang* in Law. As Hinsha Waste Agli Win asserts, unless women articulate their experiences and observations in policy and theory, and so influence educational institutions, and unless women develop theories based on their observations and experience into policy, there will be no change. Her assertion is not that of a feminist, but rather embodies a concern for balancing women’s Law into the overall governance patterns that emerge from the Land as the Law. In this last camp, I therefore explore how it is possible to take a narrative and find the jurisprudence that identifies the need for balance, which includes women’s Law.

In light of the work of SLM Neidjie, as well as that of *Plains of Promise*, I have concluded that it is the Land that *has feelings and misses its people*. By extension, I argue that the Land misses women and their ‘women’s business’ and Law. It is women’s Law that has been written out of history, as Paula Gunn Allen (1992) and other Indigenous women have argued

(see Camara Fatou 2004). More importantly, however, it is women's Law that has been denied even by Aboriginal administrators, who see little need for funding women's ceremonial activities (De Ishtar 2005: 100). However, if we take the Senior Law Men's jurisprudence to its logical end, it is they who should be advocating for the propagation of women's Law.

The sidelining of the feminine is not peculiar to Australian Indigenous jurisprudence. For example, when we turn back to the writings of Tilda Long Soldier and the macho behaviour of Lakota society in America (St Pierre and Long Soldier 1995: 169), we see that women and their ritual healing capacities are denied recognition even by their Holy Men, as articulated in the camp that discusses *Thunderheart*. I argue – and it is an argument supported by the works of Alfred (1999) in relation to Indian male leadership and its present lack of resistance to 'black magic' (1999: xiii), such as money, bribes and power – that men only give recognition if the dominant male culture tells them that this is appropriate behaviour. For example, if an economic model of law dictates that Indigenous males give money to 'women's business', then that business will be recognized as such – but as crass, commercial 'business'. What is lost here is a sense of patterned law, of dyadic relationship and balance.

This book has revealed the dyadic nature of law – a dyadic pattern that permeates down from the double moiety system into the overall nature of being on this planet. Therefore, the dyadic is the 'replicating' pattern that needs attention in order for the true voices of authority and balance in gender representation and law to emerge and to guide discussion about solutions to climate change.

During my journey to SLM Marika's country, I recall feeling the deep sense of loss that resonated through the mining town in which the rich bauxite was extracted from the area. My sense of hopelessness was not only personal – Richard Trudgen, a long-time project officer, and the Yolngu people themselves were also in a state of despair. These people had been given money, housing and other Western goods supposedly representative of the good life. But all these things brought – as they do the suburbs of Sydney or Melbourne – was a subtle despair about the sameness of material things, a sameness deadened by prescription drugs and mind-numbing sports/entertainment. They did not bring a depth of cultural biodiversity, let alone equality before the white man's law – a law devoid of ceremony and ritual, a law frightened of its own superstitious past in which ceremony and ritual have been equated with oppression and wars under the banner of a monotheistic moral ordering. In such a context, the mention of legal pluralism is an unthinkable thought – if not an act of terrorism – for it terrorizes the judiciary to think that their law may be

wanting, that it is beyond what they determine as its weaknesses. There is no room for a witnessing of its weaknesses, only a self-satisfied knowing that it is not perfect. The judiciary of this law thinks itself gracious in its willingness to consider customary law, generously allowing the natives to have their customs and practices as long as these fit within its idea of the law.

I will now return to the theoretical framework of the book to explore further its applicability to this Land-centred dilemma in which humans find themselves at this point in the geological history of the planet. It is a dilemma, I would argue, that legitimates the need to reveal other laws and other realities. The theoretical framework for establishing this legal premise was provided through an analysis of the works of the three Senior Law Men – SLM Neidjie (Buntji), SLM David Mowaljarlai (Ngarinyin) and SLM Wandjuk Marika (Rirratjingu). The works produced by these Senior Law Men inform not only this book, but also the general population, about the Law of their people. Through the unprecedented capturing of their oratories in writing, these Senior Law Men have alerted us to an urgent problem – the imbalance of the earth. It is this urgency that has made them break with tradition and record their knowledge. That act does seem contrary to the oral tradition and the manner in which lawful knowledge is passed on; however, to hold to such a way is to fossilize the peoples and their law – an act that assumes they are somehow unable to cope with modernity. But there is a warning here: this ‘captured’ knowledge, as found in their texts and in my book, is not definitive, but rather a snapshot in time. The contextualized authoritative outspeaks my work and any written works, for it remains connected to the Land.

The manner in which I apply this knowledge is through a jurisprudential reading of the actions of one of the most prominent individuals in the West, a man whose work is dedicated to revealing the true level of imbalance our planet is suffering. I refer to US Senator and former Vice-President Al Gore. I have chosen this man not for his missionary zeal based on ‘green’ ethics, but for his lived experience. What is essential for a *talngai-gawarima* jurisprudential reading is a ‘lived’ experience, not an abstracted ‘desire’ or even ‘ethic’. This ‘truth of the level of imbalance’ is reflected in my choice of advocate. The very fact that it has taken the political clout of a former Vice-President of the United States, backed by the autobiographical documentary *An Inconvenient Truth*, to draw attention to this issue heralds the gravity of this problem. His message is aimed at his own people, among the world’s worst polluters, who must take responsibility for their actions – or, like Rome of yesteryear, they are destined to fall into oblivion. So Gore functions here as a voice of authority

and a Law Man on the issue, much like an Indigenous Law Man, because his status is one not of 'politics' but knowledge, not of power but of the truth.

To reiterate, Gore's advocacy to address climate change amounts to 'an appropriate display of knowledge' of a Law Man. What is that display of knowledge? And how is this exemplary lawful behaviour analyzed through a *talngai-gawarima* jurisprudential reading? I will once again reference SLM Marika's camp and Trudgen's (2000) tests for valid legal authority:

- The credibility of the educator to know and teach this strange new knowledge.
- Whether it was delivered in the culturally correct way.
- Whether it was built on culturally accepted knowledge and truths.
- Whether it survived the intellectual debate.

(2000: 209)

These tests, I would argue, are just as relevant to the modern Westerner facing the facts of climate change as they are to the Indigenous people living in the most remote part of Australia. People need culturally appropriate knowledge and an understanding of its relevance to their situation. Gore's experience, as I will show, was not an easy path: the disclosure of hard data does not change a people, let alone a government. More is needed – an experience, a lived reality. In this, climate change has actually revealed more similarities than differences between Indigenous and non-Indigenous peoples. Both advocate the rebalancing of the *Djang* – even if their idioms differ.

So I once again turn to the concentric circle of analysis, first examining Gore's cosmology in relation to Land. He tells us that he grew up surrounded by nature's beauty and abundance on a large farm beside a river, in which he states he could 'lay down in the grass' and he 'didn't know the difference between work and play' (*An Inconvenient Truth*). This ideal life was interrupted by long periods in Washington and by schooling. By way of contrast, these periods gave Gore a better appreciation of the beauty and abundance that the land offered. During his periods of education, he learnt the 'hard data' from a science professor – a mentor whom he held in high regard. As Gore grew older, he could see that these hard data were confirmed by a rise in the levels of pollution and meteorological disturbances. So his cosmology on the issue came out of a lived experience as well as abstracted knowledge from a voice of authority.

The next level on which we explore Gore's experience relates to the system of law. As Al Gore himself found, generating change is not just a

matter of presenting the scientific findings to government and letting the facts speak for themselves. As he states:

There are good people in politics who hold this [knowledge at arm's length, because if they recognize it, the moral imperative to make big changes is inescapable. It is deeply unethical to allow such effects to occur.

(*An Inconvenient Truth*)

Gore also learnt that the economic imperative drives decision making and that it is often regarded as better to 'not' understand than to understand – especially for those of lower socio-economic status. Perhaps the most daunting reflection of the economic model comes from the voice of the lesser developed countries, which are adamant in their views when they participate in international fora such as the Kyoto Protocol.² These nations do not see why they should halt their 'rights to prosperity' when the West has already prospered. It is a Catch-22 situation, in that the West has benefited from pollution and exploitation of the Third World; in this ghastly scenario, it would seem that the chickens have come home to roost. For example, at the time of writing, China is building a nuclear energy plant every nineteen days (*An Inconvenient Truth*) – the energy may be cleaner, but the mindset of 'use' is no different; neither is the law that regulates this 'use' (*An Inconvenient Truth*). As Gore repeats, this is deeply unethical.

So Gore has found that the system of law and its power to legislate are not sufficient; there are other more pervasive influences at play. As he demonstrates in his documentary, people actually think they have a choice between more profit and a liveable planet. This human-centric view, as mentioned earlier, extends into a childish response in which governments both in the developing world and even in First World countries will not change their behaviour unless other countries follow suit. In other words, there is no sense of individual 'lawful' behaviour or responsibility; rather, the whole process has degenerated into a mob mentality of consumer consciousness and individual rights. I now move to that individual lawful behaviour and examine Gore's road to this lawful conduct by contextualizing it within the theory illuminated in SLM Marika's camp, referenced using the story of Law from SLM Neidjie's camp.

Al Gore's understanding of the seriousness of the state of climate change came through two avenues relating to the transfer of knowledge in Indigenous societies – having feelings and observation. To bring him to the state of having feelings for the planet, Gore experienced a personal tragedy

relating to the near-death of his young son. As he states in the film, he felt he had gained an ability *to feel* after the tragedy: it changed his way of being in the world. He said he really ‘dug in’ to learn more deeply about climate change and so began to travel to places such as Antarctica and the Amazon so he could understand and observe the effects of climate change up close:

[Through] the possibility of losing what is most precious to me I gained an ability that I didn’t have before . . . but when I felt it . . . I felt . . . we could really lose it . . . that what we take for granted might not be here for our children.

Gore has, in fact, chosen to learn through one of the fundamental prerequisites of the Indigenous intellectual landscape as articulated by SLM Neidjie: *having feelings* (not emotions) as a legitimate way of knowing. This has given Gore the stimulus to be more dedicated to spreading the message and in so doing he has used his privilege of place and voice of authority on behalf of the Land.

This voice, however, has been received in tandem with individual citizens also having feelings. Once Gore started pointing out that their ‘feeling hot’ was legitimate due to the rise in temperature, people were able to make their individual decisions – decisions elected governments were unable to enact due to the economic imperative and the voting reality. It would seem the US government was not even moved to action in 2003 when, over a one-week period, 400 tornadoes³ hit the United States. Japan also suffered ten devastating typhoons, yet its government barely reacted (*An Inconvenient Truth*).

However, once Gore’s ‘voice of authority’ on the issue became public through the film, change began to occur. Gore put his message into a format that was *culturally correct* for the average American. He built it on *culturally accepted knowledge and truth* by using the history of the cigarette industry – that is, the abuse of the tobacco plant and his own family’s profit as tobacco farmers – and the devastating personal loss of his sister to lung cancer from smoking. As he states: ‘It takes a long time to make the connection’ (*An Inconvenient Truth*). This admission about the length of time it took to make the connection between profit and the end-product in terms of personal loss and Americans’ ‘lived’ history of the devastating effects of cigarettes brought Gore closer to his audience – for, once again, *feelings* (the time it takes to make the connection) and lived experience gave him authority, quite apart from his political status and the scientific evidence he was citing.

This is exactly the knowledge trajectory to which Indigenous epistemol-

ogy leads – a knowledge trajectory that caused Gore to realize that the loss of the 2000 US presidential election was actually an opportunity to move back to what I would argue is a more democratic process – one reflective of SLM Marika's Yolngu people's call for respect for people's right to receive new knowledge through voices of authority with the appropriate experience and in a format conducive to their learning styles. Gore developed a 'slideshow', as he calls it, which presented knowledge about the imbalance of the *Djang* (environment) in images and language the American people would understand. He informs us in the film that he was prepared to go anywhere people would listen. In other words, he was following the Indigenous democratic process in which the individual decides to participate – that is, attend a 'slideshow' – rather than being told what is important.

Therefore, as Gore works in tandem with the Land by highlighting its state of health through the monitory of its temperature – the hottest year on record being 2005 – he endorses SLM Neidjie's adage that *having feelings* is essential for true knowledge in relation to the Land. This is an individual experience and it requires an individual response of lawful behaviour in relation to Land. As Gore states: 'What changed in the US with Hurricane Katrina was a feeling we have entered A PERIOD OF CONSEQUENCES.' In other words, the moral imperative and the understanding of consequences of actions are now being felt through climate change – *our ability to live on this planet is what is at stake*. I would suggest that Gore's experience is an excellent example of how the jurisprudence of the Senior Law Men has applicability in the present and is not fossilized for its ancient 'extractable' knowledge for the select few – such as archaeologists, anthropologists and scientists. As this *talngai-gawarima* jurisprudential reading of Gore's actions and the Land's sickness has shown, the Senior Law Men's call for a recognition of the *gift* is about consequences and responsibilities, not rights and economic development.

I now move to summarize the *talngai-gawarima* encounter with the gift that is Indigenous jurisprudence. As SLM Mowaljarlai states: 'We have a gift.' That gift is another legal regime, one that comes out of millennia of experience and observation of the processes of the *Corpus Australis* as set down by the Senior Law Men – who have chosen to take this action with a sense of urgency. This same sense of urgency has stimulated me to take the unprecedented step of considering the shape and pattern of an Indigenous jurisprudence based on works by Senior Law People. These actions, as I have argued, are opening up a new educational paradigm that asks Indigenous scholars to revisit their traditions, to find theoretical shapes and models based on ancient thoughts.

I have taken the reader on a series of journeys that patterned my thinking into the cosmology of the native peoples, shaping my choice of contemporary narratives that I later read jurisprudentially. It was from these journeys that I began to shape this book into a school of thought based on a paradigm shift to a unique discourse informed by traditional thought and Law. This discourse is different from that of Indigenous studies – a discipline within an overarching Western discourse that shapes and patterns ‘allowable’ knowledge into the educational institutions. This shift to a new school of thought, in which personal experience and observations of actualizing the Law and knowledge of the Land play a central role, is occurring in response to the call of the Senior Law Men and Senior Law Women, such as Hinsha Waste Agli Win. It is from those experiences that a theory is formed. As mentioned in *Thunderheart*, Hinsha Waste Agli Win calls women to articulate their experiences and observations in policy and theory and so influence educational institutions – not just as stories of disempowerment, but as empowering narratives framed in an Indigenous theory.

Having revised my theoretical cosmology, I will now revise that jurisprudence, and its theoretical shape and pattern, as they have been developed through my *talnga-gawarima* jurisprudential structure. The structure shaped the book into a journey of a circle of camps in which a *gawarima* was told and the *talngai* was shone on it. The knowledge outcome of this jurisprudence and these journeys was the realization that the Land is the Law and that Law is sacred in its content and healing in its application. Most importantly, it leads the individual into lawful behaviour, through which she carries out her responsibilities and, in turn, gains natural rights.

The first camp entailed reading the prose of SLM Neidjie of the Buntji peoples. By taking selections of his prose, recording them and then translating them into the ‘whitefella’ vernacular, I was able to elucidate the jurisprudential content of SLM Neidjie’s *Story About Feeling* – a book most aptly named for the understanding of his cosmology, which revealed the nature of the *Djang*. This is a primordial energy that permeates the skin of the earth, an energy of which a lawful person is fully conscious. There is a need to maintain that balance of this force known as the *Djang* and the act of maintaining the balance is carried out through an awareness of the *affect* of *having feelings* for the land and the knowledge that the land returns those feelings. This book has demonstrated that, by having such feelings, that the Aboriginal person becomes a ‘watcher’. The act of watching then reveals the helplessness of the human to redirect this great energy. It also reveals the importance of the preventative – a preventative built on a

relationship between what may be called dimensions of reality. As prefaced earlier in the book, Ramose's triadic community – which takes in the *living dead*, the *living* and the *yet to be born* – works together in this preventive behaviour. The triadic relationship comes into force in the works of SLM Neidjie to support the human relationship to the *Djang*. The gateway to this communication, or registering of the state of the *Djang*, is *having feelings*. As we saw earlier, it was not until Gore *had acquired feelings* that he intuited the level of destruction happening to the Land; however, his experience is an 'after-the-fact' one.

But these feelings are also the gateway to the living dead. The living dead are seen not as intangible ghostly apparitions, but rather sources of knowledge and warning about living on the Land and knowing the Law. Perhaps more importantly, they too are 'watchers' – watchers over the 'living' and their responsibilities to the 'yet to be born'. Communication with this dimension of Indigenous reality is through having feelings. However, this camp also introduced a fourth relationship: that of the totemic, in particular the manner in which the spirit of the totemic animals also assists the human. The intention is not to build up a fantasy of operatic encounters, but rather to make the human more sensitive to their thoughts and actions and so, in turn, to the energy of the *Djang*. In other words, the human becomes a kind of barometer, testing the temperature of society's inner and outer landscape – something that was played out in the figure of Ivy. In that narrative, it became evident that the health of the land was projected into the mental stability of the chosen human.

Hence this cosmological reading opened up not only the subjective nature of having feelings, but also its prerequisite to the intellectual landscape of Indigenous peoples. This camp was entered so that the reader could understand aspects of the cosmology one might find in an Indigenous community. It was meant to be a guide to protocols for observing and engaging with an alternative reality and people's ways of perceiving Land and Law.

The next camp led to an understanding of the system of law which one might find in Indigenous communities. The travel diary of SLM Mowaljarlai and his journey to touch up the great Wandjina cave paintings of the Kimberley brought me into an understanding of the narratives of the ventures of the Wandjina and their laying down of the *Wunnun* sharing system as a Law of Relationship. That law shapes and patterns the human into the archetypal legal system that traverses *Bandaiyan* – not unlike the rule of law that traverses the West and allows for cultural and regional differences in the expression of law and, most importantly (as Gore realized), *consequences* of actions.

It was in this camp that I demonstrated the importance of the dyadic that represents the ‘di’ of the noun ‘Indigenous’. This dyadic structure has been found to be generic among many Indigenous nations across the world. Moreover, its shape permeates nearly all relationships – from that of the dyadic moiety systems of law to that of the men’s and women’s Law. It was argued that it is this replicating pattern of engagement, rather than some territorial categorization of dualistic laws and gender or even species, that offers individual creativity and democratic participation.

Finally, SLM Marika addresses the role of the individual and the development of their voice of authority as a lawful person following the Land as the Law – a law that looks to the individual as a lawful person and builds character through expecting the individual to develop their voice of authority about why they should be lawful; a law in which the Land would seem to have an effect on the behaviour and choices an individual makes.

In summary, the theoretical elements here point to a cosmological understanding and appreciation of the founding Creation narrative. Such understanding and appreciation are essential for any knowledge of people’s intellectual landscape, which consists of their decision making and what they value in their society – that is, a system of Law that looks to the management of relationships on all levels of being, which in turn is connected through networks of moiety kinship systems across the continent that influence many decisions. Finally, it is a law of rights and responsibilities, which deem the individual lawful until proven otherwise. Their very living on their homeland gives them responsibility, which ensures their right to wellness. Therefore, when entering an Indigenous community, the first act of protocol is to learn the founding narrative, learn the system of the Law and respect the people’s rights and responsibility to good health that comes from the Land.

Let us turn now to the final group of camps, in which these jurisprudential theoretical rings resonated the theory through a series of ‘readings’ of the contemporary narratives. As I argued in the first camp, the analysis of the narrative is not an assimilation of the Western discourse of critical legal analysis of law and literature, but rather a return to the storytelling tradition in which the Indigenous jurisprudence is found. The narrative has always been the home of jurisprudence – a home made popular through access by the people. As MacNeil (2007) has argued, *lex* belongs to the *populus* and you must find it in that *populus*, which, in turn, is found in the narrative media of films, novels or the internet (e.g. YouTube or Twitter).

These narratives were chosen on the basis of journeys taken in my formative years of understanding Indigenous laws and culture. As described,

these journeys shaped and patterned my understanding of other Indigenous world-views. I therefore chose two films and one novel to reflect that lived experience. So my choice of the films, *Whale Rider* and *Thunderheart*, and the novel, *Plains of Promise*, was based not just on their jurisprudential richness, but also my lived experience and observations of the peoples and the Land. An important addition to each of these chapters, as mentioned earlier, was the shift from the jurisprudential reading of the theory found in masculine text to that of the lived experience of women and what these narratives had to say to women about their Law. Hence the Law of Relationship, with its necessary balance of women's and men's Law, was found within each chapter.

The first narrative examined, the novel *Plains of Promise*, is situated in my home territory: Australia. Based somewhere on the Queensland/Northern Territory border, this narrative dramatically poses many questions that shift the legal paradigm from the courtroom or the constraints of the missionary reserves to that of 'actualizing' the Law from the Land. This narrative, more than any I have read, 'actualizes' the law for a reader. However, had I not had my own personal experiences in this place, I do not think I could have done such a *talngai-gawarima* jurisprudential reading. For it is in the experience of Land as the source of Law, and the feelings it imbues, that one comes to know the Law.

This drama offers a sweeping vista of the history of the invasion of Australia and its ongoing 'disease', which infects the people to this day. However, this is a healing story and tells a journey of healing. It is a journey in which the Land calls back its chosen or loved ones – its little ones, who it rejoices in seeing. This act of rejoicing is manifested as a replenishment of a water supply – a break in the drought.

When I met with Alexis Wright at the Brisbane Writers' Festival in 2006, she told me that she had drawn inspiration for her story from her grandmother's life experience. Wright brings us into a very busy world of legal interaction between neighbouring tribes. Both tribes are steeped in their legal knowledge of their country, but both are also deeply concerned about the obvious 'imbalance' in their land – the drying up of the great lake. Wright skilfully uses a Creation story to cosmologize the situation. In other words, she brings us into the cosmology of the people, where we can gain knowledge of their classic history and thought. We learn where the imbalance has occurred, but it is up to the people to bring back that balance. It is a balance that is inhibited by the dualism of laws: the imposed invader's law and that of the Land. The story then becomes a balance of the two laws – a balance that does not look for solutions, but rather for processes to bring about change. It thus becomes an

inter-generational ‘sorting out’. Like any true healing, this takes time. In this case, the mental illness is in the land and is projected on to the character of Ivy. The healing will occur when the people become lawful. The character of the young Law Man Elliot epitomizes that lawfulness. It takes Elliot a lifetime to become lawful, a lifetime of pain and hurt brought about mainly through his own unlawful arrogance, which hits up against another law that controls and seduces him into a position of power over his own people.

The healing occurs over many decades, for it takes time for the right people to do the right thing and the right people to return. It is only then that the Land can truly be healed and the people themselves made well. This story, more than the others, demonstrates that the Land is the Law and that being a lawful person comes from a voice of authority of a lifetime of experience living *in* the Land rather than *on* the Land.

Thunderheart offers a close look at the Law of Relationship and the legal paths one can take, which easily mislead one into thinking that Western law will bring about freedom and respect for people’s rights. A path can lead down the Red Road based on the traditional legal narratives or one can go down the politically conservative legal path of Western discourse and its construction of an ‘indigeneity’ through fictions like customary lore, native title and other ‘acts’ that are said to offer Indigenous peoples individual legal rights – rights and their immediate solution that eventually pull the Indigenous away from the focus of law being on their responsibilities to Land and future generations. It is the conflict between the immediacy of rights overriding longer term planning for responsibilities to future generations that is played out in *Thunderheart*. These rights include political as well as economic rights. The political clashes with the economic here, with both declaring that their methods are for the benefit of the people. This is a common catchcry in Indigenous rights regimes; however, as the narrative reveals, these ‘benefits’ lead the people away from the Red Road – a road that validates who and where the people came from and where they are going, a road that does not lead to political and economic gains, but rather to a strong sense of well-being. This is something that is only just beginning to be understood, as Trudgen (2000) argues, as being fundamental both to people’s health and welfare and to their desire for economic prosperity.

Questions of Law in relation to women are played out dramatically in this narrative with the murder of the female protagonist. The story is based on the real-life drama of the after-effects of Siege at Wounded Knee in the early 1970s. This camp is heavily weighted, cautioning women that following the politically conservative can end as badly as the path of the

‘comprador’. This story, therefore, is a warning from the battlegrounds of the Great Sioux nations, which have fought long and hard with the most powerful nation in the world – the United States. The Sioux are a people who have learnt to move the battle from one of the sword and the arrow to one of the pen, TV screen and internet. The representation of the image of Native peoples is being fought hard and in a multiverse of media domains and is a battle that it is hoped will lead back to the Red Road and the rebalancing of women as leaders and holy people, as well as followers.

The final narrative chosen was *Whale Rider*, coming from our nearest neighbour – Aotearoa – and its Māori cosmology. This narrative, as I pointed out, was written after the appearance of a whale in the Hudson River of New York, where writer Witi Ihimaera (1987) was contemplating writing a new novel for his young daughter. It was the whale that gave him inspiration, as it is the Creator Being from which his *iwi*’s *whakapapa* claim their descent. Furthermore, when the novel was adapted to film, the director Caro also had an encounter with a whale – the beaching of the whale just before shooting began. As Caro explained in her interview (2003), the feeling engendered by seeing the whale beached brought a new depth to her role as director. So it was the encounter with an aspiration of the ancestor that imbued both writer and director with a feeling for the telling of this tale of constitutional challenge.

It was this constitutional level – in particular, the constitutional authority level of the Māori *iwi* – that was the central concern of the jurisprudential reading of *Whale Rider*. This camp focused on the importance of knowing the cosmological narrative of peoples so as to be able to unpack the imposition of the Westphalian model of sovereignty (Morris 2000) and its values and notions about the source of an authoritative voice – a source that pointed to a lineage that, in fact, as was pointed out, was the very same source as that for the Māori: the *whakapapa*. The Māori *whakapapa* was explained and its powerful influence on the gender bias of the voice of authority revealed.

I argued that it is the influence of the *ancient patrilineal regime* that spins what is seemingly a kind of ‘black magic’ over the leaders and their gender bias when it comes to the voice of authority. The narrative, however, depicts the future generation in the characters of a young girl, backed by ancestral force and knowledge of the *whakapapa*, who is herself a revelation of the true cosmology. This is a rebalancing of women into the *Ranginui* (Buck 1950) and *Papatuanuku* dyadic relationship of the cosmological narrative of the Māori. For it is important at this cosmological level that women be balanced back into the overall equation if the Māori are to have balanced constitutional governance. To sublimate

women is to cause an imbalance in the overall cosmological ordering – one that follows through with an imbalance of constitutional authority by sublimation of half the population. If there is such enormous inequity, then there can be no real constitutional authority and what comes about is an autocracy – a one-eyed version of a people’s future as a community.

This camp has much to offer for the leaders whom Taiaiake Alfred (1999) critiques, especially those who claim grassroots or ‘real black’ status as authoritative figures. It is therefore, the cosmology, not the politically correct, that defines a people’s principles and values.

The intention of this book was to introduce the reader to a dialogical encounter with a *talngai-gawarima* jurisprudence, which argues that the Land is the Law and that adherence to this Law is through the following of *feeling* – having feelings for the Land and enjoying the feelings from the Land that heal and balance the human personality, but at the same time instil in humans the need for balance and their responsibility to maintain that balance.

Balance comes through the Law of Relationship – a relationship with all that is around us. Any relationship demands the witnessing of another – that other being another way of seeing the world. A Law of Relationship is one between laws – laws that hold at the most fundamental level that the Land is the Law. There must be a natural understanding of polarization rather than consensus – that is, acknowledging the need to polarize before consensus can be reached, a double-helix pattern of political and social relationships. The Law of Relationship teaches and gives protocols for dealing with difference and honouring diversity – giving the human a special responsibility to care for their totemic other. It is a Law that calls for settlement of disputes to be through protocols and ritual – for example, the *Markatreeta*⁴ in Arnhem Land.

And finally, it is a Law that calls the individual to be a lawful person – a lawful person coming out of their experience and observations as their voice of authority. Such a voice honours the experiences of others, which vary from their own. It also honours their responsibility as caretakers of another species. Finally, it honours their responsibility to *care for country!*