

SOCIAL AND POLITICAL INFLUENCES ON ABORIGINAL SPIRITUALITY

By FRANK BRENNAN

1. Ritual and life

IN 1886, THE AUSTRIAN JESUITS arrived at Daly River in Australia's Northern Territory to establish a mission amongst Aborigines. They had spent four years amongst Aborigines on the outskirts of modern-day Darwin. Despairing of the depredations being visited upon these people by European and Chinese settlement, they went further afield to work amongst Aborigines guaranteed freedom from colonial and economic expansion. The mission at Daly River lasted until 1899. 1892 was 'perhaps the darkest year in the Mission's seventeen years',¹ influenza and the pending great Depression taking their toll on the people and the mission. On one of his begging tours in 1892, Fr Donald MacKillop wrote:

Australia, as such, does not recognize the right of the blackman to live. She marches onward, truly, but not perhaps the fair maiden we paint her. The blackfellow sees blood on that noble forehead, callous cruelty in her heart; her heel is of iron and his helpless countrymen beneath her feet. But we are strong and the blacks are weak; we have rifles, they but spears; we love British fairplay, and having got hold of this continent we must have every square foot. Little Tasmania is our model, and, I fear, will be, until the great papers of Australia will chronicle, 'with regret', the death of the last blackfellow. There is a feeling abroad, too, which might be worded thus – It is in God's providence that the native races here, as elsewhere, must disappear before the British people. This, of course, I do not admit. The laws of nature, not God's providence, require that in given circumstances an inferior race will disappear before a superior, but so do they require that death will follow starvation, or be the consequence of poisoning.²

Forty years later, W. E. H. Stanner arrived at Daly River and spent six months 'making a sociological survey of the remaining tribes of the

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Daly and Victoria Rivers'.³ He noted, 'The rights at puberty are now for all river tribes the most important of their remaining ritual. In the midst of generalised ritual decay they stand nearly unaltered.'⁴ He found that initiation fell naturally into four periods: (i) an indeterminate period of isolation; (ii) a period of two to three days during which circumcision occurred; (iii) a period of about a week while the boy awaited the healing of his wound and underwent ritual washing and (iv) an indeterminate period during which he re-entered the normal life of his group, assuming his new status, and resuming 'in the old or now modified forms the associations which have been ruptured by the impact of the puberty rites'.⁵ Stanner observed,

Initiation is more than the dramatisation of an individual life crisis. It is far more than mere circumcision. The rites at puberty, no matter how dramatic their emphasis, only punctuate by formal organised ceremonial a social process that runs far deeper and wider . . . In time, in significance for individual and group, initiation is no affair of the moment. For perhaps fifteen years it is a rod which disciplines the very routine of daily life.⁶

He noted that puberty in women was marked by less elaborate ritual, but ritual none the less. There was no equivalent extensive ritual at birth or marriage. Stanner observed that for the people at Daly River the religious background of life had almost disappeared. 'Most of their own beliefs have been forgotten, and they retain only a few scraps of the christian theology taught them forty years ago.'⁷ He noted that other tribes which had not suffered the same cultural shock retained their beliefs to a much greater extent. He distinguished between river tribes which had endured great contact and bush tribes which seemed to be very little altered.⁸

Stanner returned to the north-west coastal strip of the Northern Territory in 1934-5. He then accompanied a priest on the journey from Darwin to establish a mission settlement at Port Keats among the Murinbata people. When he came to write his papers on Aboriginal religion from 1959 to 1963, he relied on what he had learned from people in the area from Port Keats to Daly River. He described the Karwadi ceremony as an initiation and an integral part of the process of socialization of persons. He insisted that the ceremony was not only an initiation because Aborigines had said that the intent of Karwadi was 'to make the young men understand'.⁹ Stanner described the ceremony as 'a liturgical transaction, within a totemic idiom of symbolism, between men and a spiritual being on whom they perceived themselves to be dependent'.

Where Stanner found evidence of the lineaments of sacrifice, other anthropologists have insisted that the evidence supports only a complex rite of passage. Where Stanner found evidence of a high culture born of a religious disposition given to an embracing of the transcendent beyond self and the social order, others have found evidence only of a religious belief system supporting and being maintained by the social order. Rejecting Durkheim's 'primacy of society over religion' which held that religion is the most primitive of all social phenomena out of which come 'by successive transformations, all the other manifestations of collective activity, law, morality, art, science, (and) political forms',¹⁰ Stanner faithfully reported Aboriginal 'operations and transactions about things of value' which were handed on through myth and rite even though there be no articulated understanding or rationale of the living heritage – a transmission of some very perceptive truths about human experience and the human condition grounded in a landscape embraced as a 'humanised realm saturated with significations'.¹¹ Though the tradition was grounded in the past, it was not static; he found flux to be the norm for Aboriginal life before and after colonial contact. Pragmatism and adaptability can result from and are not necessarily antipathetic to a religious dispensation which allows the individual and the community to accept the inevitable and to survive the tragic.

The Karwadi ceremony commenced each day with the mime of the blowfly. The initiated men, crouched in a circular excavation in the ground, started the mime with a low murmurous hum while moving backwards and forwards until their heads touched. The youths then came into the centre of the circle, knelt, and imitated actions of their elders. According to Stanner:

The esoteric symbolism is not explained to the initiates, for no one seems able to interpret it. All that is known, or is now discoverable, is that the proceedings must start every day with . . . the mime of the blowfly, which goes to rotting flesh.¹²

In this shallow, circular hole, the Mother, the key actor in the Karwadi rite, manifested herself. The hole was conceptualized either as a 'nest' or a 'wallow'. Stanner interprets:

The first is a fairly clear symbol of family and sociality. The second is in some sense its reverse. The buffalo, in this region usually a solitary wanderer, makes or seeks a wallow against the heat of the day or to free itself from irritating pests and parasites. The symbol thus denotes what seem like positive and negative statements of the same truth about life:

at the centre of things social, refuge and rottenness are found together. In other words, there is an intuition of an integral moral flaw in human association.¹³

More than most other Australians, contemporary Aborigines speak of the romantic notion of community while being faction-ridden with the undertakings and routines of community living. The wallow and nest are readily posited for any sit-down place where people congregate for business for any length of time.

In 1978, Stanner returned to Peppiminarti (between Daly River and Port Keats) for the Karwadi ceremony which was attended by local people and invitees from over 1,000 kilometres away. He recorded his impressions, as Dr L. R. Hiatt says, 'with characteristic sensitivity and candour'. In an introduction to the republished *On Aboriginal religion*, Hiatt outlined Stanner's 1978 observations:¹⁴

Much remained as he had witnessed it in 1935. Some of it even struck him as the most powerful and suggestive 'theatre' he had ever seen. But the objectives of the cult now seemed to have taken on a political cast in the context of intertribal rivalries. Stanner noted a degree of severity in the treatment of novices that seemed to express a greater desire to impose the authority of the cult upon them than to inculcate 'understanding, a sense of mystery or the other loftier things' he had attributed to it in his monograph.

Last, but perhaps not least, the Mime of the Blowfly was missing from the repertoire. In its place was a new performance, the Mime of the Aeroplane.

In 1961, Stanner had pronounced the Mime of the Blowfly as the centrepiece of the highest Murinbata ritual, symbolizing corruption or living on corruption. Though ceremonial life had withered in the 1940s and 1950s, a revival, albeit with profound changes, took place in the 1970s, as instanced by a Karwadi ceremony omitting the blowfly mime and featuring a new mime simulating a two-engined aeroplane approaching or taking off from an airstrip.

On my periodic visits to Daly River, I meet a community of mixed tribal origins in a state of constant flux besieged by outside demands and highly factionalized when it comes to questions of land. The community has a local council structure which by election empowers certain individuals to make decisions and to negotiate with outside groups including Government and Land Council regarding community living arrangements. The Council also deals directly with the police in maintaining some semblance of law and order. When the going gets very

tough, the ultimate sanction for matters under their control is not the administration of council-supervised punishment but rather a trip across river to Peppiminarti where they can be straightened out in no uncertain terms by local leaders. However, there are many aspects of life in the Daly River area which are beyond the control of the people: aspects of the good and the bad. Whether it be a pending birth or an emergency evacuation, a visit by big time outsiders or the commencement of proceedings for a serious criminal offence, the principal actors fly in and out on the aeroplane. Refuge and rottenness, life and death, joy-filled awe and foreboding are sensed in the drone of the propellor which heralds the other world. The aeroplane dance is to community living and individual behaviour what the blowfly dance was two or three generations ago. The ritual has kept pace with social change. As in the past, it enacts more than the social order; though used to buttress the social order, it is now more dependent on personal, charismatic power than on the old law which guaranteed respect for and the authority of elders.

2. *Land rights*

In 1492, Europeans and the American Indians discovered each other. To each, there opened a New World. For centuries, Christopher Columbus was described as the discoverer, and the Indians as the discovered. Throughout the world, indigenous peoples were then dispossessed of their lands without consent and without adequate compensation. Their societies were destroyed and slavery was common. In 1537, Paul III in the bull *Sublimis Deus* condemned those who held that 'the inhabitants of the West Indies and the southern continents should be treated like irrational animals and used exclusively for our profit and service'. He declared that the 'Indians as well as any other peoples which Christianity will come to know in the future, must not be deprived of their freedom and their possessions even if they are not Christians and that, on the contrary, they must be left to enjoy their freedom and possessions'.

In colonial times, the European powers carved the globe into spheres of influence. Having asserted sovereignty by act of state, the colonizer would assert control over the local population and resources. Native systems of land title would continue but only until they were extinguished by will of the sovereign. Especially where the native population lived a communal life style, hunting and gathering, without a political system operating beyond the territory occupied by the local language group, the colonizers would take over the land as if it were *terra nullius*.

The assertion of sovereignty often resulted in the expropriation of native lands without consent or fair compensation.

After the Second World War, the United Nations committed itself to a decolonization process. Native peoples with an identifiable population and land base were entitled to self-determination. Local populations could make a free choice whether or not to be integrated into the adjacent society administered by the colonizing power. When separated by blue water or by identifiable boundaries, such populations could decide to separate and seek their own development.

In this post-colonial era, indigenous people have become more political in their struggle. Their rights are an international issue. Their claims to land rights, sovereignty and self-determination are being heard, but are restricted by prevalent notions of private property, national sovereignty and assimilation. In many countries, a just and proper settlement is still to be reached. Land rights are an issue in countries where an indigenous population is in the minority and the law of the new settlers has in the past paid insufficient regard to the traditional owners' right to land. It is also an issue where indigenous people are the majority but where communal notions of native land title are giving way to individual notions which are more compatible with the demands of foreign investors.

In his world travels, Pope John Paul II has spoken often about indigenous land rights and the need to negotiate agreements with indigenous people. To Australian Aborigines he said:¹⁵

Let it not be said that the fair and equitable recognition of Aboriginal rights to land is discrimination. To call for the acknowledgement of the land rights of people who have never surrendered those rights is not discrimination. Certainly, what has been done cannot be undone. But what can now be done to remedy the deeds of yesterday must not be put off till tomorrow.

The establishment of a new society for Aboriginal people cannot go forward without just and mutually recognised agreements with regard to these human problems, even though their causes lie in the past.

The Pontifical Commission for Justice and Peace has spoken of Aboriginal peoples as being marginalized with respect to their country's development and the need to guarantee the rights of first occupants to land, and to a social and political organization which allows them to preserve their cultural identity, while remaining open to others.¹⁶ One risk to be avoided is their 'being forced to assimilate without any concern for their right to maintain their own identity'. The rate of their integration into the surrounding society must be their decision.

In seeking an appropriate social and political organization for indigenous people, we have to move beyond the primitive notion that assimilation is a precondition for justice for all. Equality does not equal uniformity. Equality of treatment requires recognition of differences which indigenous minorities themselves want to maintain in order to develop according to their own specific characteristics, while still having regard for others and for the common good of society and the world community. An assured land base is essential. Any decision to be integrated into the surrounding culture must result from a guaranteed free choice based on the right of minority group members to live together according to their specific cultural and religious characteristics. This requires the provision of realistic alternatives backed by the equitable provision of government services to indigenous people whichever choice they make.

Indigenous people are not simply self-identifying groups in the community who are in need of welfare assistance. As descendants of the first occupants and as the primary custodians of indigenous culture and heritage, they have a right to continue the management of their community affairs on their lands as autonomously as possible provided they do not act contrary to the common good nor interfere with the rights of others, and provided all community members are afforded a realistic choice between their community life and the life-style available to other nationals. Though the provision of such choice may require extra resources from government, the cost is justified and necessary given the history of dispossession of land and kin which was the precondition of the birth of modern nation states which include indigenous peoples within their borders. The evils of assimilation and discrimination will be overcome only by indigenous people determining their future, even if it be inevitably as a part of a nation state in which they are numerically a minority.

Recognizing indigenous land rights, a post-colonial legal system is able to reverse some of the wrongs from previous generations and to wrap a protective husk around the relationship of the indigenous people with their land (often a spiritual as well as economic relationship), affording them the protections and opportunity needed to determine their own future and to manage their own affairs, no longer foreigners nor second-class citizens in their own land. Land-rights laws usually preclude tribal elders alienating the land or relinquishing control. The land is to be maintained for future generations. The land is held in trust for the benefit of all tribe members. Special provisions govern access to the land by miners and other developers because such commercial

activity can disrupt the spiritual life and traditional life-style of the people. The risk of such disruption should be permitted only with the consent of the people.

3. The religious factor

Under Durkheim's influence, many commentators saw Aboriginal societies as the epitome of primitive religion paralleling primitive social organization. Religion was seen to be a social instrument for the preservation of law and order. It is still an opinion popularly espoused that traditional Aboriginal religions, particularly in remote desert areas with small populations, shared much in common with monotheistic religions in that they provided a regime for law and order in societies which had to ensure a strict code of morality for survival of the community. The complexity of myth and ritual and the diversity of religious practice belie any simple reduction. Understandably such reduction has greater appeal for commentators who admit to no religious dimension in their own lives. Admittedly such reduction may be too readily dismissed by those of us who profess a religious dimension in our own lives and protest its being posited as a consequence of our social conditioning.

In contemporary Aboriginal Australia, the religious factor is just one level of relationship, just one justification for, just one perspective on the Aboriginal relationship with land. It is an abiding factor; it is also a changing factor. It can be an independent factor; it can also be an inter-dependent factor. It is a threatened factor – threatened not only by non-Aboriginal non-practitioners of the religious belief system but also threatened by Aboriginal owners who choose or are cajoled, persuaded or simply slip into another way of looking at the world and therefore another way of looking at their land.

Aborigines constantly see their reality in terms of their relationship with creator beings of the Dreaming, with the land, and with each other. There is no ready differentiation between the law, religion and culture. The law is seen to be life-giving as well as death-dealing. Life is not a morality play but it can be a tragic-comedy to be lived to the full. There is always time for myth and ritual to be enacted and repeated. Change is neither sought nor a matter for surprise. No change is so great that it need be a challenge to Aboriginal faith. Aboriginal religion is never some idealized system lived in splendid isolation by people yearning for the lives of their ancestors a century ago, having no interest in the attractions of technology and ideas developed in cultural contexts far removed from their own. Contemporary Aborigines are above all else

contemporary people open to the world and wanting to assert their own identity. There are many Aborigines in many communities through Australia who are crying out; I have heard them saying:

We know we have problems. We know they are our problems. We know many of these problems would not have occurred but for the clash of cultures and the enforced dispossession of our ancestors and the continued disadvantage and poverty we suffer. We know that we have to find the answers and work at implementing them. We know we need help. We want help – but help which respects our dignity and accords us our due autonomy as indigenous people. We know our law cannot provide the answers of this new rapidly changing world which attracts, shapes, and sometimes twists our children and our young people. To solve these problems we do not want to become just like the colonisers and migrants to our land. We want to solve these problems our way so we can continue to live our way – though that may not be like our ancestors did. Those days are gone. And not like other Australians live. We want our way to be strong so our young people will be proud to choose it whatever happens.

When there are threatened developments on Aboriginal land, the religious factor in the Aboriginal relationship to land is invoked by Aborigines and their supporters to buttress their claims because the nation state continues to deny to the Aboriginal owners the power to make the decisions about their land, which are really decisions about their lives. Instead, the decisions are made by non-Aboriginal non-practitioners of the religion trying to offset the incommensurable spiritual factor against the so-called national interest or community interest. If freedom of religion were taken seriously in these cases, Aborigines holding the beliefs would also be holding the power to determine the outcome. Having to articulate one's questioned religious heritage to non-believers whose economic or national interests are presumed sacrosanct simply because they are espoused by the decision-makers demands articulation of the ineffable and independent valuation of the transcendent reality.

Decisions about land use become politicized because government will not trust Aborigines as the decision-makers, determining their own religious future by weighing incommensurable values and making their own determination when there is a conflict of aims between them and other citizens who want to use the land for their own interests. Economic and social realities impinge on decision-makers whoever they may be and whatever their beliefs. Aboriginal traditional owners are more likely to make the right or preferable determination simply because it is their

decision. Wherever there has been conflict in the past, the decision of the State has been that it is for an instrument of the State (whose personnel are not the Aboriginal landowners), to make a determination as to the balancing of rights and interests, they having translated the Aboriginal religious affiliation to land in a way comprehensible to themselves and the colonizing community and having gauged the religious interest over against other incommensurable matters, all of which impact upon the common good. When the State determines the weighting to be given to the religious factor in the Aboriginal relationship to land, there will always be grounds for objecting that the decision-maker has wrongly weighted that factor against criteria which are not more objective but simply more comprehensible and appealing to the decision-maker.

There are barbaric economic rationalists who regard any religious beliefs, no matter how many or how few profess them, as quaint, non-rational human quirks with no economic rationale. They dismiss out of hand the religious beliefs of indigenous people. For them, a fifty per cent-plus-one vote and an improved balance of payments settle the matter, whether it be a site sacred to the indigenous people or a cathedral.

4 Terra nullius no more

If I were to ask my Irish forebears who were singing in Gaelic about the theme of their songs, they would probably reply, 'They are about life'. Similarly, requests made of Aboriginal people to explain their songs or paintings result in the response, 'It's my country'. They speak for their country.

'This is my country' is one of the proudest contemporary Aboriginal declarations you will ever hear. Aboriginal artists are even painting their country for sale and display in foreign lands. Art has become the bridge of communication and commerce out of which has grown non-Aboriginal appreciation of the land and Aboriginal access to cosmopolitan goods and services. It is a new way of talking the history and acknowledging the present – a way that does not threaten the descendants of the European colonizers and that need not undermine the integrity of the Aboriginal landowners who have been dispossessed. It is a way of sharing the land through understanding and respect. The painting both tells the story and evokes it; it is the text and the visual aid; it is the map, the code and the very terrain under which lies buried a world of meaning that expresses values transcending all cultures while being embodied completely in this culture, fully accessible only to the initiated.

The new quest for self-expression across cultural barriers has a pathetic two hundred-year history. The self-interested failure of colo-

nists to recognize Aboriginal land rights was part of a cohesive policy aimed at reducing Aboriginal resistance to European progress, development and economic expansion. On the fringes of the new society built on their lands, Aborigines were marginalized from its benefits. The present generation of Aborigines is the first to know formal equality under the law, the first to enjoy the benefit of affirmative action programmes – in housing, health, education and employment – aimed at overcoming past disadvantage and providing equality of opportunity. Their grandparents were supposed to die out; their parents were to be assimilated or at least integrated. They are now supposed to manage their own affairs and to become self-sufficient if not self-determining. They are recognized by the others in the land as people in their own right.

In situations of potential conflict, they have to translate the sacred to others outside the world of religious meaning in profane, or at least mundane, terms so that the violent law of a foreign culture might wrap a protective husk round the life-giving and death-dealing relationship they have with clan, Dreaming and land. That relationship is law in its fullest sense, 'a subtle and elaborate system highly adapted to the country in which people lived their lives, which provided a stable order of society and was remarkably free from the vagaries of personal whim or influence . . . a government of laws and not of men'.¹⁷

'The lands of the Australian continent were not *terra nullius* or "practically unoccupied" in 1788.'¹⁸ Though the British Crown asserted sovereignty over those deemed to be barbarians in 1788, it would be barbaric, as it was then, to presume sovereignty automatically wiped the slate clean of native land title. The fiction of *terra nullius* allowed the European community of nations to expand their colonial horizons with minimal concern for indigenous peoples. Governor Phillip may have asserted British sovereignty over the eastern part of the Australian continent on 26 January 1788 but he did not thereby automatically increase unencumbered crown landholdings by another half continent. Native title to the lands continued until the new sovereign dealt with the lands in a manner inconsistent with the continuation of native title.

Terra nullius was clear and simple; it was also unjust and discriminatory. In the future, we have to expect further showdowns in the contest between Aboriginal law and the law of the colonizers. During a major dispute between Aborigines and miners in 1980, Mr Ginger Nganawilla portrayed the conflict starkly: 'If we are to allow Amax (the mining company) to return to Noonkanbah they must show us Law, not paper

law. Paper is nothing. Paper can be washed away. Our Law, Aboriginal law, will last forever. If Amax has this Law then they must show us.¹⁹ Ironically the enduring Aboriginal law is being recognized by foreign legal systems at a time when it is coming under greater threat from its own practitioners.

5. *Culture fading away*

The primary custodians of indigenous cultures have a rich heritage and an abundant resource which gives value to the political struggle, the physical labour and spiritual trauma of living in two worlds. The genius of Aboriginal religion is summed up by Professor Stanner in his description of Murinbata religion:

It affirms reality as a necessary connection between life and suffering. It sees the relation as continuously incarnate and yet as needing reaffirmation. It celebrates the relation by a rite containing all the beauty of song, mime, dance and art of which human beings are capable.²⁰

Aboriginal law, even if recognized by the colonizers, has to survive under challenge from its own practitioners who sense both new horizons and shifting foundations in their lives. If it is to maintain its appeal to contemporary practitioners, the Aboriginal religious world-view has to embrace, or at least encounter and accommodate the world-views of others. Aboriginal cultures are changing, being lost and retrieved at a rate never before experienced. Aboriginal people themselves know best that their system of law is under threat.

The breakdown of the law, the abandonment of myth and ritual, and violence in these communities are exacerbated by readily available alcohol, widespread unemployment and concentrations of population which draw together groups from various clans and language groups for administrative convenience and economies of scale. Communities of such size, variety and outside contact never existed previously except for periodic ceremonial, trading and meeting purposes. As permanent societies, they are new creations in the post-contact era resulting from the push and pull of outside service delivery. Such 'communities', as they are erroneously described, do not and never have had a simple or uniformly acknowledged law, religion, or culture which could provide the basis for a customary dispute resolution structure or process.

An Aboriginal anthropologist, Marcia Langton, wrote a report, *Too much sorry business*, for the Australian Royal Commission into Aboriginal deaths in custody. She said:

It is clear . . . that the appalling level of domestic violence against Aboriginal women is not being addressed by Aboriginal Law. Many

women are hesitant to speak about it, but the daily parade of women with bandaged heads and broken arms, especially in towns and larger communities where there is access to alcohol, is plain for all to see.²¹

Aboriginal law embraces all we might variously describe as law, religion, philosophy, art and culture. Discrete groups of individuals were able to ascertain with practical precision their relationships, rights and duties with each other, their land, and their possessions. It was binding law which was life-giving and death-dealing. As Langton puts it:

What our people mean when they talk about their Law, is a cosmology, a worldview which is a religious, philosophic, poetic and normative explanation of how the natural, human and supernatural domains work. Aboriginal Law ties each individual to kin, to 'country' – particular estates of land – and to Dreamings. One is born with the responsibilities and obligations which these inheritances carry. There are many onerous duties, and they are not considered to be optional. One is seen to be lazy and neglectful if these duties are ignored and the respect, authority and advantages, such as arrangements for good marriages, opportunities for one's children, are not awarded. As many of our people observe, Aboriginal Law is hard work.²²

In many areas, culture is fading away; law is breaking down; languages are being lost; the ceremonies are dying out. Aborigines are living under two laws. But traditional law is losing its sanction, its appeal, its practitioners and its teachers. It is becoming optional. Some desire its continuation and transmission. Others, especially when drunk, can opt out when it suits them or lose it when living in a social situation where that law no longer makes whole sense of the individual's new world filled by motor vehicles, videos, satellites, faxes, firearms, computers, cash, grog, school and fast food – all of which have their advantages and disadvantages.

Young men facing initiation or some corporal punishment or young women facing a traditional betrothal to a much older man increasingly want to opt out of the traditional law and opt in to the system of individual choices and liberties they see on screen (cf *Dallas, LA Law*) or in the streets of towns and cities they visit. The colonial legal system in these instances prizes individual rights and individual freedom of choice over collective rights of the group and the requirements for handing on a tough, wholistic law which is hard work. Aboriginal law no longer controls every aspect of their lives. Free to choose, the young may abandon culture even if only for short-term gain or liberty. Affected by alcohol and confronted by change, the elders may lose their confidence and abandon their duties to the law.

Once elders are denied the power to impose their law on the young without their consent, having already been denied the power to impose their law's ultimate sanction even with the consent of all parties, Aboriginal law inevitably becomes an optional way of living for the new generations who may want to move freely between two worlds.

Today, law and culture remain strong only while they hold appeal or can be imposed without human rights violations on the young who see and want to roam far beyond the boundaries of their traditional country. Culture is breaking down because, as the old say, the young are running away from ceremony.

The old law which was all-embracing is shattered by outside contact. It no longer typifies the ineluctable human condition enacted as a celebration of the fearful approach to mystery. However some of the law may be salvageable and amendable if reshaped by those who have a memory and a vision of the law, having the skill and authority to impart it to the young who have geographic and cultural choices previously unimagined. Aboriginal communities might then keep afloat and mobile in the sea of all cultures, remaining true to themselves and their ancestors. Imposed solutions will generate further alienation and despair. Government with and at the request of local communities might keep in check needless violence and even remedy the causes embedded in a shattering colonial history.

6. *Constancy and change*

Future generations of Aborigines will want to live in the best of all possible worlds – Aboriginal but open to all the world has to offer, not being swamped by it, being able to stay afloat, able to make sense of it, able to embrace the mystery of it, even able to shape it, and able to hand on to their children, the successors in title, the uniqueness of their culture and the universal possibilities of life in the modern world.

The week Professor Stanner died, traditional owners were gathering at Daly River for the hearing of their land claim. The old men told the young anthropologists how they had, fifty years before, 'been carried on Stanner's shoulders while he hunted and talked with elders long since gone'. Stanner saw and had a reverence and respect for Aboriginal religious practitioners who embraced the mystery beyond themselves and their own. He had seen them embrace the land they walked on, performing the ritual and telling the myth. Their country and their countrymen had embodied all they needed to confront the ultimate mystery of reflective creaturehood. In his last visit to the north, he saw religion subjugated to a tool for social order in a drink-sodden and

crime-ridden Aboriginal community. Now, as then, we all inhabit the nest and the wallow. As always, 'at the centre of things social, refuge and rottenness are found together'. Ideas and conduct are forever changing and forever the same.

Recently I was with traditional owners of land in another remote part of Australia. Without warning, they cried out to their ancestor spirits. They told me, 'They're still here'. A couple of minutes later we were back on the main road and I was told, 'Highway One'. Both worlds coexist for those embracing the mystery of being Aboriginal when so much has changed while so much of what ultimately matters remains as it was in the Dreaming. If only we could be more willing to allow Aborigines to make the decisions about their country, we could accord dignity to the human person's religious sensibilities and we could witness true self-determination by which Aborigines decide whether to mine, to build a dam, or to maintain the *status quo* for a while longer while they reflect on what is best for them and for us. Why does it remain so unthinkable that they should make some decisions for us when those decisions relate to their country? Any religion has to come to terms with power, wealth and conflicting demands of interest groups. Even in the midst of agonizing worldly decisions, indigenous people still have the opportunity to count themselves blessed on their land. Economic imperatives, like the laws of nature, may cloud our vision. Like MacKillop a century ago, we need to discern the justice of indigenous peoples' claims to land, allowing them to speak for their country, thereby according religious freedom to those whose ancestors settled and humanized the land tens of thousands of years before Abraham set out for Canaan. We might then discover the full life-sustaining capacity of the land which is sacred.

NOTES

¹ G. O'Kelly, *The Jesuit mission stations in the Northern Territory*, Thesis, Monash University (1967), p 51.

² D. MacKillop, *Sydney Herald*, 23 December 1892.

³ W. E. H. Stanner, 'The Daly River tribes: a report of fieldwork in Northern Australia', *Oceania* vol 3 (1932-3), p 377.

⁴ W. E. H. Stanner, 'The Daly River tribes: a report of fieldwork in Northern Australia', *Oceania* vol 4 (1933-4), p 11.

⁵ *Ibid.*, p 12.

⁶ *Ibid.*, p 13.

⁷ *Ibid.*, p 21.

⁸ *Ibid.*

⁹ *Oceania* vol 30 (1959), p 109.

- ¹⁰ W. E. H. Stanner, 'Reflections on Durkheim and Aboriginal religion' in M. Freedman, Frank Cass & Co. (eds), *Social organisation* (1967), p 217 at p 221.
- ¹¹ W. E. H. Stanner, 'Religion, totemism and symbolism' in R. M. and C. H. Berndt (eds), *Aboriginal man in Australia* (Angus and Robertson), p 227.
- ¹² W. E. H. Stanner, *On Aboriginal religion*, Oceania Monograph 36 (reprint 1989), p 7.
- ¹³ *Ibid.*, p 44.
- ¹⁴ *Ibid.*, p xxii.
- ¹⁵ *The Pope in Australia* (St Pauls Publications 1986), p 170.
- ¹⁶ *The Church and racism: towards a more fraternal society* (1988), p 19.
- ¹⁷ *Milirrpum v Nabalco* (1970), 17 *Federal Law Reports* pp 141ff at p 267 (Blackburn J).
- ¹⁸ *Eddie Mabo and others v The State of Queensland*, Deane and Gaudron JJ (1992), p 656 ALJR pp 408ff at p 451.
- ¹⁹ S. Hawke and M. Gallagher, *Noonkanbah* (Freemantle Arts Centre Press, 1989), p 193.
- ²⁰ W. E. H. Stanner, *On Aboriginal religion*, p 56.
- ²¹ Royal Commission into Aboriginal Deaths in Custody, *National Report* vol 5 (AGPS, 1991), p 373.
- ²² *Ibid.*, p 361.