

An Unequal Coexistence

**From 'station black' to 'Aboriginal custodian' in the
Victoria River District of Northern Australia**



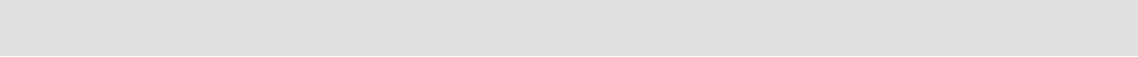
DAVID COOPER

AUSTRALIAN NATIONAL UNIVERSITY

A thesis submitted for Degree of Doctor of Philosophy

Australian National University

January 2000



Declaration

I declare that this thesis is my own work and has not been submitted in any form for another degree or diploma at a university or other institute of tertiary education. Information derived from the published or unpublished work of others has been acknowledged in the text and list of references given.

David Cooper

December 1999

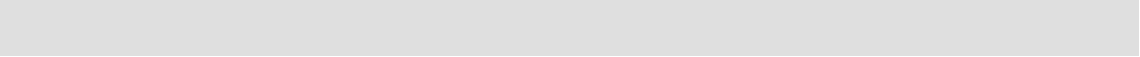
Acknowledgements

This thesis would not have been possible without the generous help, advice and friendship of many individuals along the way.

Firstly, I must acknowledge the support and assistance of the many Aboriginal people who have inspired and contributed to the work and without whom there would be no thesis. Some require individual mention here. Bobby Witiitjpuru provided the perspective of a remarkable life history and personal knowledge which spanned the entire historical period of the research. His death in 1997 was cause for deep sadness at the loss of a community leader and individual of immense integrity, dedication and generosity of spirit. It is to him that the thesis is dedicated. Laurie Roberts and his family, Joe Long, Ronnie Balwanja, Alan Griffiths, Jerry Jones, Darby Tiyawatulwan, Jo Kulpitala, Snowy Kulmilya and Riley Young and others have all provided invaluable assistance offered with remarkable generosity and patience.

I must acknowledge and thank the present and past CEOs of the Aboriginal Areas Protection Authority, Bob Ellis and David Ritchie, both of whom have assisted and encouraged my research efforts over the years, and to other staff of the Authority who have generously helped along the way.

To my supervisor, Richard Baker, special thanks are due for his valuable advice and sound judgement in guiding me along the seemingly never-ending path and for applying pressure when necessary. Francesca Merlan also provided valuable guidance, particularly in the early stages of the research. Habiba Gitay, Patrick McConvell and Gordon provided support and supervision during an earlier incarnation of my research proposal. Habiba, together with Sean Heffernan also helped on part of



the early fieldwork. Thanks too to Ian Dunlop for providing a base at ANU when I first arrived in Canberra.

Special thanks are also due to a number of others, particularly those, including Tim Rowse, Toni Bauman, Di Hafner, Susan Jensen and Ken Mulvaney who read and commented on all or parts of the drafts. Ken Mulvaney also provided invaluable assistance with the maps.

Thanks too to fANTaR buddies Cate, Charlie, Alison, Krysti, Kirsty, Sean and others, from whom I have drawn such inspiration and generous support and who gave me a much-needed practical outlet for my academic musings. Friends and fellow thesis writers Katie Glaskin, Sue Jackson, Sam Wells, Sean Heffernan and Nic Gill have also provided much appreciated support, encouragement and comradeship along the way.

Finally, thanks must go to members of my close family: Annette, JR, Cate, my daughter Elena, Catherine, Thurston and Kali, who have supported the work in ways too numerous to mention, including enduring with patience and compassion the many frustrations it has brought to all our lives. Elena, you finally get your dad back.

Abstract

The thesis addresses the broader theme of coexistence between black and white Australians through an extended case study of the mediation of overlapping Aboriginal 'heritage' interests in land with the interests of non-Indigenous landowners and land managers in the Victoria River District of the Northern Territory (the 'VRD'). The thesis shows that while an historical perspective reveals marked changes in many of the outward manifestations of intercultural relations (for example, changes in white categorisations of Aboriginal people from 'station blacks' to 'Aboriginal custodians', and changes in the conduct of relations from violent to non-violent behaviours), the overall tenor of relations has changed little. The VRD community remains 'racially' segregated, characterised by separate cultural domains, poor intercultural communication and entrenched Aboriginal marginality and socio-economic disadvantage. The thesis shows how recognition of Aboriginal heritage interests in land is largely determined by the parameters of this pattern of relations, which are analysed in the thesis through the themes of power, cultural difference and strategic action. The thesis also examines the Western paradigm of heritage, from its conceptual origins to the structures and processes which have subsequently been developed in Indigenous heritage policy, including heritage protection legislation and processes of consultation. The integration of heritage protection with development approvals processes has created many difficulties for Aboriginal communities in the VRD, whose heritage interests are often placed in opposition to the economic interests of the wider Australian community. The thesis endorses a coexistence approach to mediating Indigenous heritage interests with the interests and needs of non-Indigenous land owners and land managers. This must include effective statutory protection of Indigenous heritage interests together with mechanisms and resources to promote and negotiate voluntary agreements between Indigenous and non-Indigenous stakeholders.

CONTENTS

Chapter 1: Introduction.

PART 1: SEPARATE REALITIES, SEPARATE LIVES.

Chapter 2: Landscape and 'Racial' Division in the VRD.

Chapter 3: The VRD Community: A Portrait in Black and White.

PART 2: ON PLACE AND SIGNIFICANCE.

Chapter 4: Trees of Knowledge: Maintaining Aboriginal Cultural Links to Land.

Chapter 5: The 'Heritage-isation' of Aboriginal Cultures.

PART 3: THEORETICAL PERSPECTIVES ON CROSS-CULTURAL INTERACTION.

Chapter 6: Power and Cultural Difference: an Interactional Approach.

PART 4: PASTORAL RELATIONS: FROM 'STATION BLACK' TO 'ABORIGINAL CUSTODIAN'.

Chapter 7: 'An Unwritten Contract': Coexistence on Auvergne Station, 1930-1972.

Chapter 8: Drifting Apart: Post-1960s Pastoral Relations.

PART 5: THE HERITAGE PROTECTION ERA.

Chapter 9: Protecting Sacred Sites: Indigenous v Legislative Approaches.

Chapter 10: Three Case Studies.

Chapter 11: The Role of Consultation in Intercultural Relations.

Chapter 12: Conclusion: An Unequal Coexistence.

Appendix A

Bibliography

List of Interviews

TABLE OF CHAPTER CONTENTS

Acknowledgements	iii
Abstract.....	v
Figures and Tables:	xi
List of Plates:.....	xii
Glossary:.....	xiv
CHAPTER 1: INTRODUCTION	1
1.1. The central question	3
1.2. Research influences and methodology	14
1.3. Major themes and key terms	20
1.4. Chapter outline	28
PART 1:	
SEPARATE REALITIES, SEPARATE LIVES.....	35
CHAPTER 2: LANDSCAPE AND 'RACIAL' DIVISION IN THE VRD	36
2.1. Introduction.....	36
2.2. Sandstone and rangeland: landscape and 'racial' division in the VRD	37
2.3. Frontier v 'settled' landscapes.....	40
2.4. Landscapes of co-existence	45
2.5. A battle of conceptual landscapes	47
2.6. 'Interactional' v 'transactional' relations to land.....	53
2.7. Who defines, rules!	55
2.8. Conclusion	56
CHAPTER 3: THE VRD COMMUNITY: A PORTRAIT IN BLACK AND WHITE.....	60
3.1. Introduction.....	60
3.2. A Portrait of the VRD community.....	61
3.3. Racial interaction in the VRD	68
3.4. Insider/outsider issues	73
3.5. Conclusion	78

PART 2:

ON PLACE AND SIGNIFICANCE..... 83

CHAPTER 4: TREES OF KNOWLEDGE: MAINTAINING ABORIGINAL CULTURAL LINKS TO LAND..... 84

4.1. Introduction	84
4.2. 'Sacred sites' and Dreaming tracks	85
4.3. Dreaming trees and symbolisation	90
4.4. Dreaming ecology and contemporary cultural landscapes.....	93
4.5. Cultural continuity and change	97
4.6. Maintenance of cultural attachment to land	102
4.7. Non-Indigenous impacts and implications.....	105
4.8. Conclusion.....	108

CHAPTER 5: THE HERITAGE-ISATION OF INDIGENOUS CULTURES..... 111

5.1. Introduction	112
5.2. The heritage paradigm	117
5.3. Indigenous cultures and the interests of nation, the academy and business.....	121
5.4. Cultural tourism: consuming Indigenous 'heritage'.....	126
5.5. Authenticating and distancing Indigenous cultures	130
5.6. Heritage and control of the physical and social landscapes	132
5.7. The subversive cultural landscape	135
5.8. Indigenous experience and heritage	138
5.9. Race relations, heritage and 'special needs': the big picture emerges	145
5.10. Conclusion.....	149

PART 3:

THEORETICAL PERSPECTIVES ON CROSS-CULTURAL RELATIONS AND INTERACTION..... 153

CHAPTER 6: POWER AND CULTURAL DIFFERENCE: AN INTERACTIONAL PERSPECTIVE 154

6.1.	Introduction.....	154
6.2.	Resistance and domination in pastoral relations.....	156
6.3.	Some theoretical approaches to cross-cultural interaction.....	167
6.4.	Power and cultural difference: implications for understanding cross-cultural interaction.....	190
6.5.	Conclusion: Power, cultural difference and the interpretation of Aboriginal responses.....	198

PART 4:

PASTORAL RELATIONS IN THE VRD: FROM ‘STATION BLACK’ TO ‘ABORIGINAL CUSTODIAN’	201

CHAPTER 7: AN ‘UNWRITTEN CONTRACT’: COEXISTENCE ON AUVERGNE STATION, 1930-1972.....	202
7.1. Introduction.....	202
7.2. An overview of intercultural relations in the VRD.....	207
7.3. Coexistence on Auvergne: an ‘unwritten contract’	222
7.4. A separate Aboriginal domain.....	224
7.5. Coexisting cultural domains.....	233
7.6. Unequal power relations.....	237
7.7. Conclusion	246

CHAPTER 8: DRIFTING APART: POST-1960s PASTORAL RELATIONS.....	250
8.1. Introduction.....	250
8.2. Politics and land: Post-1960s changes in European-Aboriginal relations.....	251
8.3. Sacred sites and scepticism	271
8.4. Auvergne since the 1980s	276
8.5. Underlying issues for pastoralists and Aboriginal people in recognising Aboriginal cultural interests in land.....	284
8.6. Underlying issues for pastoralists.....	286
8.7. Underlying issues for Aboriginal custodians	291
8.8. Conclusion	296

PART 5:

THE HERITAGE PROTECTION ERA..... 300

CHAPTER 9: PROTECTING SACRED SITES: INDIGENOUS VS LEGISLATIVE APPROACHES 301

- 9.1. Introduction 301
- 9.2. Legislative fragmentation of cultural rights 303
- 9.3. Indigenous cultural heritage protection and the 'sacred site' 307
- 9.4. *The Northern Territory Sacred Sites Act, 1989* 314
- 9.5. Protecting sites: Indigenous non-confrontationist strategies 332
- 9.6. Barriers to Indigenous access to statutory processes 340
- 9.7. Issues affecting the emergence of Aboriginal concerns about
sacred sites 348
- 9.8. Conclusion..... 352

CHAPTER 10: THREE CASE STUDIES..... 357

- 10.1. Case Study 1: 'Helicopter man' 358
- 10.2. Case study 2: Max's Tour 361
- 10.3. Case Study 3: Ranger's residence consultation meeting by the
Parks and Wildlife Commission of the Northern Territory 366

CHAPTER 11: THE ROLE OF CONSULTATION IN INTERCULTURAL RELATIONS 374

- 11.1. The role of consultation in intercultural relations 374
- 11.2. The act of consultation 375
- 11.3. Cultural, interactional and processual influences on Aboriginal
responses to consultations 381
- 11.4. Conclusion: consultation, negotiation and self-determination 395

CHAPTER 12: CONCLUSION: AN UNEQUAL COEXISTENCE..... 398

- 12.1. From 'station black' to 'Aboriginal custodian' 399
- 12.2. The terrain of coexistence in the 'heritage era' 404
- 12.3. Some implications for the present and future 411
- Bibliography 424
- Interviews: 441

Figures and Tables:

Figure 1: Location map showing study area and places mentioned in the text.

Figure 2: Map showing land tenure status and Aboriginal communities within the study area.

Figure 3: Principal land forms of the study area.

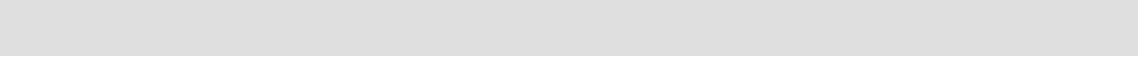
Figure 4: Schematic map showing the major Dreaming tracks within the study area.

Figure 5: Auvergne Pastoral Lease showing registered sacred sites.

Table 1: Typical pastoralist assessment of black/white relations.

List of Plates:

- Plate 1:** Custodians inspect a site where a sacred boulder was stolen. The site was registered and had an AAPA sacred site sign.
- Plate 2:** Stump of a sacred tree cut down beside a station homestead.
- Plate 3:** Remains of the sacred tree from Plate 2. These remains were still regarded as spiritually important.
- Plate 4:** Concrete weir built across Timber Creek without consultation with custodians.
- Plate 5:** This (registered) sacred tree is in a vulnerable location beside the Victoria Highway.
- Plate 6:** Land degradation on the fragile soils of the Auvergne floodplain.
- Plate 7:** This unusually formed sacred tree is protected by its location within an Aboriginal community.
- Plate 8:** A sacred tree which has died and fallen into a body of water is called *jalmin* and continues to be regarded as spiritually active. This *jalmin* is on Auvergne Station.
- Plate 9:** Unauthorised road works which have damaged a sacred site on the Victoria Highway.
- Plate 10:** Auvergne floodplain. The solitary out-of-place tree is regarded as of Dreaming origin.
- Plate 11:** A sacred site damaged by the Victoria Highway. The highway was subsequently diverted around the site at the request of custodians.
- Plate 12:** A sacred site damaged by the Victoria Highway.
- Plate 13:** 'Gregory's Tree' with man-proof fence erected by the Parks and Wildlife Commission.
- Plate 14:** Cairn and plaque on the Victoria Highway near 'Gregory's Tree'.
- Plate 15:** Postcard depicting heritage attractions of the study area. The man in the bottom right frame is Bobby Witijpuru.
- Plate 16:** Aboriginal workers' huts at Auvergne Station.
- Plate 17:** Joe Long in his 'bull-catcher' returning from visiting sites on Auvergne.
- Plate 18:** Former Aboriginal stockmen at the Timber Creek Aboriginal Rodeo, 1997.
- Plate 19:** Sacred boab tree in Auvergne Station. Note the erosion around its roots.
- Plate 20:** An outstation located amongst sacred trees.
- Plate 21:** This set of cattle yards was erected amongst sacred trees without any consultation with Aboriginal custodians. Some of the trees were chopped down.
- Plate 22:** An outstation established without the pastoralist's permission. Note that cattle salt licks have been placed at the site to attract cattle and hinder the residents. The tree is spiritually important.
- Plate 23:** Remains of an old timber cattle yard constructed on a sacred site.
- Plate 24:** This sign on an outstation gate shows the principal Dreamings associated with the area.
- Plate 25:** Pastoralists were not told about this sacred tree until it was registered in 1995.
- Plate 26:** Custodian Laurie Roberts placing an AAPA sacred site marker beside a sacred tree on Auvergne Station. The tree is located at a popular boat launching location and is vulnerable to inadvertent damage.

- 
- Plate 27:** Senior custodian Joe Long at Auvergne Station with a grinding stone which belonged to his father.
- Plate 28:** Civic function at Timber Creek. Aboriginal community members are mostly standing or sitting at the very back – a common experience in cross-cultural situations.

Glossary:

AAPA	Aboriginal Areas Protection Authority
ABS	Australian Bureau of Statistics
AHC	Australian Heritage Commission
AIATSIS	Australian Institute of Aboriginal and Torres Strait Islander Studies
ATSIC	Aboriginal and Torres Strait Islander Commission
CERD	United Nations Committee on the Elimination of Racial Discrimination
CLC	Central Land Council
NLC	Northern Land Council
NTCA	Northern Territory Cattlemen's Association
NTCPC	Northern Territory Cattle Producer's Council
NTPWC	Northern Territory Parks and Wildlife Commission
RLC	Rural Landholders for Coexistence
VRD	Victoria River District

CHAPTER 1: INTRODUCTION

In 1985 I visited a cattle station homestead with a group of Aboriginal custodians¹ to inspect a sacred tree which had been cut down by the station manager because of concern that branches from the old tree might fall onto the building. All that was left of the tree, a once stately white eucalypt right beside the homestead, was a large stump in the ground and the cut up trunk and branches strewn in an adjacent paddock (see Plate 1). Some years later, in 1991, I accompanied a different group of Aboriginal custodians to inspect damage to a registered and sign-posted sacred site on a pastoral lease. The main feature of the site, a mineralised boulder standing about a metre high (a transformed ancestral kangaroo) had been stolen, leaving only a scatter of fractured pieces where the boulder had been wrenched off its rocky pedestal. The sacred site sign, which custodians had earlier placed on the boulder after the grading of a new station fence line had intruded into the site, narrowly missing the boulder, had been tossed aside (see Plate 2). In both cases the sense of dismay and loss felt by the custodians as we examined the damaged sites was palpable.

These two examples represent the opposite poles of a dilemma that faces Aboriginal custodians concerning the protection of sacred sites on pastoral leases and other non-Indigenous owned land in the Northern Territory. In the former case the manager did not know about the significance of the tree, yet he also failed to check with the custodians of the area, living a mere two kilometres away. The fence line incident also involved a failure to consult with custodians, however, in addition, the subsequent

¹ Throughout this thesis I will use the word 'custodians' to describe those Aboriginal persons who hold responsibility for a sacred site under Aboriginal law. The main reason I do so is because this is the term which is used in the Northern Territory's Indigenous heritage legislation (but see NLC 1998 and Sutton 1999 for contrasting views of the term).

registration of the boulder highlights one of the dangers of publicly disclosing information about the existence of sacred sites – the possibility of malicious theft or damage. Such concern in fact has a history spanning the entire period of culture contact which has seen countless acts of damage or theft of physical elements of sacred sites, including human burials and sacred paraphernalia. So where does a balance of interests fall in these cases? To some, the pastoralists should have consulted with custodians before cutting down the tree or grading the fence line. To others, Aboriginal custodians should have disclosed the significance of the tree and the boulder to the pastoralists from the start. But there is also a broader question. Why was there no communication between pastoralists and custodians? And what are we to make of the issues surrounding the deliberate destruction of a sacred site, or of the invidious position custodians find themselves in having to reveal sensitive religious knowledge in order to secure protection of its physical manifestations from non-Indigenous impacts?

Still other issues are raised by the legislative context of the incidents. Since the late 1970s Indigenous cultural heritage protection legislation and an Indigenous heritage agency have existed in the Northern Territory. The agency could easily have been approached to check about the existence of sites in the area. However, this legislation does not make it compulsory for landowners and land users to obtain sacred site clearances before undertaking works, so neither the cutting down of the tree nor the grading of the fence line was illegal because the Act contains a defence of ‘reasonable ignorance’ against prosecution for damaging a sacred site on non-Aboriginal land. Once the boulder site was registered and sign-posted however, there was no excuse for damaging the site – assuming the perpetrator could be found. These issues suggest there is significant slippage between the theoretical rights established in legislation and the actual rights which Indigenous people come to enjoy on the ground.

1.1. The central question

The central question of the thesis can be posed as follows: To what extent do current circumstances in the Victoria River District of the Northern Territory (the 'VRD') represent an equitable coexistence of overlapping Aboriginal 'heritage' interests in land and the interests of non-Indigenous landowners and land managers? In answering this question we must also address the significant changes which have occurred in intercultural relations, particularly the circumstances of the transition of Euro-Australian characterisation of Aboriginal people in remote pastoral regions from 'station blacks' to 'Aboriginal custodians' – a transition which resulted from the emergence in the late 1970s of legislation to protect Aboriginal cultural heritage in the Northern Territory.

Background to the central question

The question is posed against a national backdrop which has highlighted the continuing hiatus in relations between Indigenous and non-Indigenous Australians. The relationship - a consequence of a colonisation process which established an Australian nation and national identity at the expense of pre-existing Indigenous nations - faces a still unresolved dilemma concerning the terms of recognition of pre-existing and continuing Indigenous cultural interests in the land. In 1992, the landmark High Court *Mabo*² case overturned two centuries of legal non-recognition by finding that Indigenous groups held native title over the Australian landmass prior to British annexation and that in some circumstances native title has not been extinguished by subsequent acts of the Crown. While *Mabo* has been hailed as a revolution in

² *Mabo v Queensland (no 2)* (1992) 175 CLR 1. Prior to *Mabo*, Euro-Australian law recognised that the British claimed the Australian continent under the legal doctrine of *terra nullius* (literally 'empty land') which gave no legal recognition of the prior sovereignty of Indigenous peoples. See Reynolds 1987, 1989 for pre-*Mabo* questioning of the *terra nullius* doctrine.

Australian jurisprudence,³ this has been tempered by the realisation that, in practice, native title appears to have been extinguished over much of the Australian land mass and, where it remains, is an inferior form of common law right which must yield to inconsistent non-Indigenous property rights (see below).

Moreover, in translating this newly-discovered common law to statute, Australian governments have applied racially discriminatory standards in the form of provisions which facilitate the further extinguishment of common law native title rights to the benefit of the property rights of non-Indigenous landholders. It is arguable that similar measures would never have been countenanced in relation to non-Indigenous property rights. Underscoring the discriminatory nature of the Commonwealth's approach to native title, amendments to native title legislation in 1998 have recently been declared in breach of Australia's international obligations.⁴ In spite of this, the Northern Territory Government has drawn up native title legislation in accordance with the 1998 amendments (the states and territories being responsible for regulating native title in their respective jurisdictions), which would further reduce the rights of native title holders, particularly on pastoral leases (ATSIC 1999).⁵

The reality, then, is that the nation has not overturned its history of the dispossession and alienation of Indigenous peoples which has resulted in the ownership of 88% of the continent by non-Indigenous interests. In these areas - held under mainly Crown

³ For example, see Stephenson and Ratnapala 1993.

⁴ See, for example, submissions to and findings of the investigation by the United Nations Committee on the Elimination of Racial Discrimination (CERD) on the compatibility of the Australian Government's 1998 native title amendments with Australia's obligations under the Convention on the Elimination of All Forms of Racial Discrimination, particularly the submission by Australians for Native Title and Reconciliation (ANTaR 1999a).

⁵ Under the amended Commonwealth *Native Title Act*, state and territory native title legislation are 'disallowable instruments' meaning they must first be approved by the Federal Parliament in order to become law. At the time of writing the Northern Territory legislation has been rejected by the Federal Senate because of concerns that the NT Government could later amend the legislation to the detriment of native title holders (see for example, Margot Kingston, 'Coalition divided over Wik deal', *Sydney Morning Herald*, 1/9/99).

leasehold and freehold titles (including the aforementioned pastoral leases in the Northern Territory) - Aboriginal cultural interests in land remain marginalised and contested. It is for this reason that the thesis concentrates on non-Indigenous owned lands - specifically those in the remote rangelands of the Victoria River District (the 'VRD') of the Northern Territory (see Figure 1) - but also, by extension, similar lands and issues in other parts of northern and central Australia.

The guiding principle for the study is that Indigenous cultural interests in land demand non-discriminatory recognition by governments wherever such interests occur. The standards for such recognition have been established under international instruments to which Australia is a signatory. These include the *Convention on the Elimination of All Forms of Racial Discrimination*; the *Covenant for the Protection of World Cultural and Natural Heritage*; the *International Covenant on Civil and Political Rights*; and the *International Covenant on Economic, Social and Cultural Rights*. Recognition of Indigenous rights by governments is mainly effected through special legislation.

Currently in Australia, the Northern Territory has the most comprehensive legislative regime dealing with Indigenous rights in land – largely as a consequence of the Commonwealth's enactment of the *Aboriginal Land Rights (Northern Territory) Act 1976* (henceforth referred to as the *Land Rights Act*) following the Woodward Land Rights Commission in 1973.⁶ The *Land Rights Act* enabled Aboriginal people in the Northern Territory to make traditional claims over areas of unalienated crown land and Aboriginal-owned pastoral leases, and established statutory functions for the Land Councils⁷ to administer both the claims process and subsequently-granted lands on

⁶ Justice Woodward was appointed by the Whitlam Labor Government to conduct a Commission of Inquiry into Aboriginal Land Rights in the Northern Territory. He produced two reports (Woodward 1973; 1974).

⁷ The Land Councils in the Northern Territory have defined statutory powers, responsibilities and funding under the *Land Rights Act*. Land Councils in some other states (such as

behalf of the traditional owners. In view of the fact that the traditional lands of many Aboriginal Territorians were not available for claim (including town areas, freehold land and non-Aboriginal owned pastoral leases), a number of additional measures were proposed to safeguard their traditional interests. One such measure was provision for the protection of all sacred sites in the Northern Territory from illegal entry and desecration (s71), and to empower the Northern Territory Government to introduce complementary legislation to administer sacred sites protection in the Northern Territory (s73). This resulted in the *Northern Territory Aboriginal Sacred Sites Act, 1978* (the '*Sacred Sites Act*'). The second additional measure was to establish a process for Aboriginal people to obtain community living areas ('excisions') on non-Aboriginal owned pastoral leases. The results of this process for Aboriginal people wishing to live on pastoral leases have been disappointing and painfully slow. Moreover, this process has been accompanied by a diminution of pre-existing but largely ineffective rights, dating from the 1850s, entitling Aboriginal people to hunt, forage and reside on pastoral leases (see Chapter 8).

Of these four measures (the right to claim traditional lands; the right to protect and access sacred sites; the right to reside on traditional lands; and the right to hunt and forage on traditional lands), only the provisions of the *Sacred Sites Act* apply to all areas of land in the Northern Territory, including all freehold and Crown tenures. Given the object of the Act to protect areas of cultural significance to Aboriginal people and given its strength in terms of the extent of rights and participation in decision-making it affords Aboriginal custodians (see Chapter 9), this is a significant and underpinning aspect of government recognition of Indigenous cultural interests in land. No other

Queensland and Western Australia) do not have such statutory backing and funding, although many have been accredited to carry out statutory functions as native title representative bodies under the *Native Title Act*.

Northern Territory legislation⁸ dealing with Indigenous rights has such an extensive purview. However, an effect of this uneven recognition of Indigenous rights and the lack of effective enforcement, is that some areas of government policy undermine or fail to protect aspects of Indigenous cultural practices which are integral to the 'heritage' interests which *are* deemed worthy of protection.⁹

This singling out of Indigenous heritage protection has had other implications with respect to intercultural relations. One of these is the degree to which Indigenous heritage protection processes have become the major issue around which Indigenous and non-Indigenous interests in land are mediated. This has had both positive and negative implications; positive in the sense of an increased recognition and involvement of Indigenous people in non-Indigenous use and development of the land, and negative because of the potential for race-based conflict and misunderstanding created by the close linkage of Indigenous heritage protection and development approvals processes.

However, there is another side to the story of the transformation from 'station black' to 'Aboriginal custodian' which has received comparatively less attention. That is, the effects of this transformation on the nature of intercultural relations and cross-cultural communication and vice versa. In particular, what has it meant in terms of continuing relations with pastoralists and other landowners and land managers? And what has been the nature of relations and communication between custodians and statutory and other bodies that have come to have an interest in Indigenous heritage over the last

⁸ However, the Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act, 1984* and sections of the *Land Rights Act* also apply over all land in the Northern Territory, but are seldom used on non-Indigenous owned land in comparison to the *Sacred Sites Act*.

⁹ The protection of other critical aspects of Indigenous identity and relations to land, such as the ability to speak Indigenous languages, is also compromised by ill-directed policy decisions of the Northern Territory Government which has, for example, recently had to back down on plans to downgraded bilingual education in Aboriginal schools (*ABC Radio News*, 10/6/99).

couple of decades? In many parts of the Northern Territory, despite the greatly improved statutory recognition of Indigenous customary rights, there has been little change in the structure of intercultural relations.¹⁰ This is significant in that legislative and administrative provisions facilitating Aboriginal rights and interests in land are themselves dependent on the quality of intercultural relations and communication. This thesis strongly makes the point that for such reasons, legislative approaches towards Indigenous rights issues fall far short of their assumed or stated potential. So too the potential for negotiated agreements with non-Indigenous land owners and land managers rests on the establishment of relationships based on respect and trust. Ultimately, any analysis of coexisting Aboriginal and non-Indigenous interests in land must carefully address the issues of intercultural relations and communication.

In addressing the central question of the thesis, then, I seek to illuminate the background of public policy in the area of Indigenous affairs, and particularly to consider the extent to which Indigenous heritage policy helps Indigenous peoples achieve the 'right to preserve their culture' (Dodson and Pritchard 1998) and to determine their own futures.

Subsidiary issues addressed in the thesis

In answering the central question of the thesis a number of subsidiary issues have to be considered. The first of these concerns the extent and essential elements of 'racial' division in current black/white relations in the VRD. Significant sources of such division are the cultural differences (particularly of language, conceptual systems and relations

¹⁰ Anthropologist Ronald Berndt observed 'the long view ... reveals that, while the contexts of unequal treatment are mostly different, they continue to be there. In other words, while issues change to meet the circumstances of the day, the ways in which these are approached remain essentially the same (Berndt 1981:13).

to land) between the two groups and the resulting communicative, behavioural and attitudinal barriers which such differences bring to intercultural encounters. The thesis examines contrasts in cultural conceptions of, and attachment to, the land, including differing notions of heritage and significance, and considers the ways in which these differences inform the patterns and structures of intercultural relations. Racial division in the VRD is also a product of the past history of black/white relations. In the VRD the effects of the past in the present are profound. On the stations, relations were predicated on an unchallengeable ultimate power of whites.¹¹ Power inequalities continue to pervade present relations, raising the question of the kinds of resistances and other strategies which Aboriginal people utilise in their dealings with whites. Here, an historical approach enables an assessment of how present resistances and other strategies relate to historical forms.

A second set of issues relates to the nature and adequacy of the structural approaches of governments in dealing with Indigenous heritage interests in land. The thesis approaches these issues by firstly examining the development of current legislative approaches and secondly, by presenting a case study of the *Northern Territory Aboriginal Sacred Sites Act 1989*. To the extent that such structural approaches depend on processes of cross-cultural interaction, the same set of issues raised in relation to race relations are relevant here also. Of equal significance are the processes which have been adopted in legislation and other formalised contexts to 'rationally' administer the rights and interests of Aboriginal people. In the main, this has involved processes of consultation. The thesis considers the adequacy of current processes of consultation.

¹¹ 'Whites' or 'white people' are terms commonly used in reference to an Aboriginal/non-Aboriginal divide. Other terms, such as 'European', 'Euro-Australian', 'non-Indigenous' and 'non-Aboriginal' are also used in the thesis. All have descriptive limitations of some kind.

A final set of issues relates to the nature, role and adequacy of cross-cultural communication with respect to the broader question of the recognition of Aboriginal cultural interests in land. Although cross-cultural communication is examined as a component of the other subsidiary issues discussed above, it is also necessary to examine in some detail the dynamics of cross-cultural interaction in order to understand its significance and ramifications at all levels of intercultural relations. Of particular interest here are the simultaneously opposed roles of cross-cultural communication in both accommodating and resisting domination by whites.

Choice of the study area

The Victoria River District comprises the catchment of the Victoria River which rises in the semi-arid lands of the Tanami Desert, draining northwards through intersecting plainlands, floodplains, low relief hills and sandstone plateaux, to the Joseph Bonaparte Gulf near the border with Western Australia. The study area focuses on the central western portion of the catchment, roughly centred on the present town of Timber Creek, a small outpost of about 300 people, and the only town between Katherine, 300km to the east, and Kununurra, a similar distance to the west just over the Western Australia border (see Figure 1). The southern section of this area is dominated by a belt of sandstone plateaux, including the Stokes and Newcastle Ranges, which is dissected and drained on all sides by a crescent of western tributaries of the Victoria River. To the north the plateaux give way to a band of floodplain country fringing the Victoria River and its major tributary, the Baines River, hemmed in by the Pinkerton Range to the north.

As with many areas of northern Australia, reports of the grazing potential of the Victoria

River region and the adjacent East Kimberley region of Western Australia attracted European interest resulting in the area first being stocked in the early 1880s (Riddett 1988). The first two decades of European occupation were marked by violent clashes with Aboriginal groups, resulting in severe population losses and social dislocation. The survivors had little choice but to succumb to a station existence as virtually unpaid labour. This period of Aboriginal servitude on pastoral stations lasted until the 1970s by which time an improved recognition of Aboriginal citizenship and customary rights heralded a shift to independent¹² Aboriginal communities and the regaining of some traditional lands. The 1980s brought further change to the area with the establishment of Gregory National Park over a large portion of the sandstone plateaux in the southern and eastern sections of the study area. Named after an early explorer to the area, Augustus Gregory, it is the second largest national park in the Northern Territory, and is managed by the Northern Territory Parks and Wildlife Commission. The introduction of this new land use to the area has had effects on both the Aboriginal and non-Indigenous communities - the former because of new processes and opportunities for Aboriginal involvement with the national park, and the latter because of an increased focus and potential for remote area tourism.

Many of the above issues have been significant in justifying the field study choice of the VRD. Firstly, the area retains, to a significant degree, non-Indigenous land ownership. The area is still predominantly used for cattle grazing with many pastoral leases remaining under non-Indigenous ownership. The presence of Gregory National Park also offered the opportunity to examine a significant alternative non-Indigenous land use regime, while the town of Timber Creek and the Victoria Highway include

¹² I use the term independent here in the sense of being separate from white communities, however, in also being administered bureaucratically under government policies of 'self-determination' and 'self-management' (bureaucratic expectations and requirements being utterly inconsistent with both policy goals, as Rose (1986) and Sullivan (1996), for example, have pointed out), these communities are denied effective independence.

areas of freehold and public-purpose land subject to significant non-Indigenous impacts. Secondly, more than two thirds of the local population are Indigenous, most of whom live on or near the lands to which they are traditionally affiliated, and retain a tradition-oriented focus and lifestyle. Relations between the Aboriginal and white communities are marked by community division along 'racial' lines and by a limited understanding amongst the white community about the detail of Aboriginal cultural links to land. Thirdly, by virtue of its remote location, relatively small population and high level of interaction between its Aboriginal and non-Indigenous communities, the VRD community has retained a 'frontier' mentality, an effect of which is the persistence of somewhat extreme examples of attitudes about Indigenous issues which are common in the broader white Australian community. At the same time its remoteness and frontier mentality have underpinned the existence of persistent tensions which are common between remote and metropolitan Australia.

However, the primary reason for the choice of the study area is a fifteen year association with Aboriginal people in the area, bringing into sharp relief continuities and changes in the structure of intercultural relations which would, under the normal time constraints of fieldwork research, have been difficult to perceive. Longer experience of the area has also enabled me to be involved with a wide range of land use issues, many of which were, at the time, new to the local community. For example, I was involved from the initial stages of the establishment of Gregory National Park and have been able to participate in and to observe the evolving interactions between the Aboriginal community and the Parks and Wildlife Commission.

The core of the study area and the source of many of the examples used in the thesis is Auvergne Station. What was later to become part of Auvergne was the site of the base camp for Augustus Gregory's 1855-56 exploration of the Victoria River valley – the first sustained European presence in the area. Established in 1886, Auvergne was

one of the first pastoral leases to be taken out in the VRD. Originally larger than its present size, Auvergne surrendered land in the early 1890s for the first provisioning centre for the VRD, the Victoria River Depot ('The Depot'), and adjacent land in 1932 for the establishment of the Timber Creek Common (where the township of Timber Creek is now located), as well as areas excised in 1986 for inclusion in Gregory National Park.

Genesis of the Research

My interest in embarking on this research derives from nearly fifteen years' experience with Indigenous heritage issues in the Northern Territory, much of that time as a field officer and later, consultant with the Aboriginal Areas Protection Authority (the 'AAPA')¹³, a statutory body administering Aboriginal cultural heritage protection legislation, the *Northern Territory Aboriginal Sacred Sites Act, 1989* (the '*Sacred Sites Act*'). This work has served to highlight for me the profound lack of understanding of Aboriginal cultural concerns exhibited by mainstream Australia, as well as the shortcomings of heritage mechanisms - even of progressive examples¹⁴ such as the *Sacred Sites Act* - in dealing with the cross-cultural experiences of Aboriginal communities at a local level.

I also became acutely aware of my own complicity in the inexorable processes of facilitating the development agendas of non-Indigenous interests – governments, commercial interests and individuals alike – without being able to properly address the need for information, understanding and reciprocal consideration which Aboriginal

¹³ Formerly known as the Aboriginal Sacred Sites Protection Authority.

¹⁴ For example, the *Sacred Sites Act* is currently the only Aboriginal heritage legislation in Australia in which control of the evaluation and administration of sites is exercised by an independent Aboriginal-controlled body, the Board of the AAPA (Evatt 1996; see also Chapter 9).

custodians often expressed. At the same time, I have been witness to what to me seemed extraordinary expressions of generosity, tolerance and forbearance from Aboriginal people faced with endless demands on their time and traditional lands; as well as to many outcomes of mutual understanding and cooperation when custodians and unfamiliar white landowners and land users were brought together to discuss their respective concerns. These experiences have convinced me that coexistence is not only possible, but essential if the broader project of reconciliation is to mean anything to the Indigenous communities of rural and remote Australia.

In these respects this thesis represents as much a record of my own personal journey as it does an attempt to bring some of these issues to others who may share an interest in the nature of black-white relations in Australia, or who may find themselves involved in work or activities which bring them into contact with Aboriginal people in rural and remote Australia.

1.2. Research influences and methodology

Multi-disciplinary sources of the research

The research topic is one which has demanded a multi-disciplinary approach. In being primarily about cultural tensions between Aboriginal and non-Indigenous Australians over land, the thesis has drawn heavily on the disciplines of cultural geography, anthropology and history.

Central to the study of the relationships between cultures and land has been the concept of landscape and its constitution as a cultural artifact, or, to frame it from a geographer's perspective, the fact that 'culture is *spatially constituted*' (Jackson 1992).

In combination, geography and anthropology's approaches to Aboriginal cultural landscapes have produced a broad variety of perspectives, exemplified in the work of Munn (1970, 1973); Morphy (1993, 1995); Layton (1995); Merlan (1994a, 1998); Rose (1988a, 1996b); Williams (1982, 1986); Baker (1993, 1999); and Head (1993).

In examining cultural conflict and coexistence in a setting of decolonisation, a second major area of inquiry has been that of intercultural relations. This area is even more worked over by different disciplinary and theoretical perspectives on both past and present relations. Historians such as Reynolds (1982, 1990); McGrath (1987); Riddett (1988) and others have contributed much to our understanding of past (and present) relations, added to by the oral history approaches of Baker (1999); Shaw (1986, 1992); and Rose (1991). Australian Aboriginalist anthropologists such as Cowlshaw (1988, 1993); Cowlshaw & Morris (1997); Edmunds (1993); Merlan (1978, 1998); Morphy & Morphy (1984); Morphy (1983); Morris (1989); Rose (1991); Rowse (1987, 1998); and Trigger (1992), have also provided valuable perspectives. This body of work has variously utilised ethnographic, linguistic, archival and oral history methodologies. Other contributions have come from interdisciplinary fields such as cultural studies with the work of Meucke (1992) and Lattas (1990, 1993). Further important contributions to the understanding of intercultural relations come from linguistic approaches to cross-cultural communication, particularly in relation to education and legal contexts, for example, Eades (1984, 1988, 1991, 1992); McConvell (1988, 1991); Harris (1977, 1990); Christie (1985); Christie & Harris (1985).

Finally, there is a considerable body of work relating to policy and legislative contexts of Indigenous affairs (including land rights, native title and heritage protection), land use and planning, and social impact assessment, contributed to by individuals from a range of backgrounds – anthropologists, lawyers, geographers. Examples include Jacobs & Gale 1994; Howitt (1995, 1997); Jacobs 1988; Jackson (1996, 1997, 1998);

Young (1995); Davies & Young 1996; Merlan (1991b, 1994b, 1997), Sullivan (1996) and Sutton (1995, 1996, 1999).

Nature of the fieldwork

The research is primarily based on fieldwork with both Aboriginal and non-Indigenous landowners and land managers in the VRD. Examples and case studies are drawn from experience over a twelve year period (1985-1997) in a wide variety of interactional settings, mostly concerned with the protection of Aboriginal cultural heritage on non-Indigenous owned land. Much of my fieldwork involved working directly with senior Aboriginal custodians documenting their cultural sites as well as their concerns about the impacts on them of non-Indigenous land owners and land users. Many of these Aboriginal people I have come to know well, having worked with them over a lengthy period visiting and discussing their traditional lands. Their words and actions have expressed an unrelenting focus on the land and sites to which they are traditionally affiliated and on the exercise of their customary rights and responsibilities towards such areas. This experience has been invaluable in terms of gaining an understanding of Aboriginal relations to land.

Meetings and consultations of various kinds have been another significant component of the fieldwork. Some of these have involved only Aboriginal participants while others have also included white landowners and land managers, government officials, developers and representatives of Aboriginal organisations. This applied aspect of my fieldwork experience has also placed me in the position of being an intermediary in cross-cultural situations seeking to facilitate communication and understanding among the participants.

Most of the fieldwork involved participant observation in settings in which I had an identified formal role as a field officer of the Aboriginal Areas Protection Authority. Consequently, my presence has had a direct bearing and influence on the conduct and outcomes of interactions. However, having been involved in such work over a number of years has enabled me to observe changes and continuities in such processes and to assess this experience at a distance from the national political debate.

Use of oral history

The research also draws on oral history accounts, from both Aboriginal and non-Indigenous informants. The value and necessity of using oral sources in culture contact studies are discussed by Baker (1999). Oral sources are necessary to document Aboriginal perspectives. One of the outcomes of this thesis is a fuller understanding of the nature and strategic significance of Aboriginal communication with Europeans, particularly the withholding of cultural information about the land. Without Aboriginal oral sources this important aspect of intercultural relations would not be accessible. The corollary to this is that European written records are correspondingly deficient with regard to Aboriginal perspectives. Written accounts also reflect the personal and official influences of the writer. Oral accounts are therefore important in checking and evaluating the biases and omissions of written sources. These issues are not confined to the past but are also very real in terms of current processes of consultation with Indigenous communities, where written documents in files (official histories) are relied upon by whites to record and legitimate outcomes (see also Chapter 11).

Oral accounts, like any other sources of information, need to be assessed for accuracy and bias. One method of checking is through the written record (taking into account the deficiencies of written records identified above); another is to seek corroboration

through other oral accounts. For instance, the taking of evidence from a range of community members about relevant aspects of cultural significance of, and relatedness to land has been a feature of the land claim process in the Northern Territory.

However, the reliance on oral accounts from Aboriginal people in determining land entitlement and heritage protection needs has prompted criticism that oral accounts are open to deliberate fabrication, are often unverifiable, and therefore should not be used as a 'primary element' in decision-making over land entitlements and land use conflicts (Johns 1998). While corroboration from others is in most cases available, such concerns are often raised in response to situations where there are apparently conflicting or polarised views. These issues are exacerbated by complex political and cross-cultural dynamics which are examined in some detail in the thesis.

An aspect of oral accounts requiring caution is the role of nostalgia, particularly with regard to remembrances at a distance from the events being recounted (see, for example, debate in Rowse 1988b and McGrath 1988). A more difficult issue is that of the different underlying conceptualisations and conventions of Aboriginal discourse about the past and the extent to which this reflects an 'historical consciousness' (Merlan 1994a, Beckett 1994).

The quality of many oral accounts relied on in the thesis has benefited from having been recorded within the areas of country and at the actual sites being discussed. This is significant in that Aboriginal discourse is particularly responsive to place and location.

Historical documentary material

The fieldwork data has been augmented by historical archival research, utilising existing published sources wherever possible. Fortunately the study area has been the focus of historical research by a number of scholars (such as McGrath 1997; Riddett 1988; Rose 1991) as well as published and unpublished accounts of both Aboriginal and white residents of the area (for example, Durack 1974, 1983; Durack & Durack 1940; Ngabidj 1981; Shaw 1986, 1992; Schultz 1995; Willey 1971; Ronan 1966; Rose 1991). The close links between the VRD and the adjacent East Kimberley region has meant that much of the material relating to the East Kimberley is also of direct relevance to the study area.

Ethical issues

Finally, my research methodology has involved consideration of the complex ethical issues arising from cross-cultural research. Foremost amongst such issues is the need to deal ethically with cultural information collected during the research. This is particularly important with respect to ensuring that privacy, confidentiality and cultural restrictions on access and use of information is respected, and that consent is obtained for the purpose or purposes for which information is to be used. I have adhered to the principle that Aboriginal cultural information should only be used with the knowledge and consent of its customary owners. To these ends I have discussed with and obtained consent from those who provided information to me regarding the objectives of my research and the nature of the cultural information which I have included in the thesis. No information of a culturally restricted nature has been used in the thesis.

A second ethical issue which has arisen in relation to the thesis is the identification of individuals involved. In seeking to address issues of race relations at a local level, I have been aware of the sensitivity of revealing the subjects and sources of information

used in the thesis and the potential for individual relations to be placed under strain as a result. Additionally, it has been necessary to use detailed records of cross-cultural interactions for analysis purposes, in relation to which the identification of the participants is in some cases unnecessary and/or inappropriate. In consideration of these issues I have taken the approach of not revealing the identities of informants or subjects in some instances. Such instances have been noted in the text.

1.3. Major themes and key terms

Rights in land: customary, common law and statutory rights

A major theme of the thesis is that of differing cultural and legal conceptions of relations to land. This is a complex issue in both legal and psychological terms. In the context of Euro-Australian law the matter would appear to be simple - that is, sovereign title (fee simple) vests in the Crown which may grant subsidiary titles of various forms - freehold, leasehold etc. Holders of such titles enjoy various degrees of rights over the land, in some cases amounting to exclusive possession.

The recognition of native title under common law has complicated this picture. The landmark High Court *Mabo* case in 1992 established that Aboriginal and Torres Strait Islander people held customary title (native title) over their land which has survived acquisition by the Crown where no subsidiary title had been granted (so-called Vacant Crown Land) or where the subsidiary title granted less than rights of exclusive possession over the land. In the latter case, native title continues to exist only to the extent that it is not inconsistent with rights granted by the Crown. This renders native title as recognised in the common law an inferior form of title to Crown-granted titles. However, despite this shortcoming the *Mabo* case contemplated the novel situation of

coexisting customary and sovereign titles over the same land.

The Crown, through the parliaments,¹⁵ also has the power to grant statutory rights over land to Indigenous people. In the Northern Territory, for example, various pieces of legislation achieve this end. The most significant of these is the Commonwealth's *Aboriginal Land Rights (Northern Territory) Act, 1976* which has resulted in the transfer of former reserves and successful or pending land claims totaling approximately 46% of the Territory. Granted land is held under an inalienable freehold title and is commonly referred to as Aboriginal land. A second principal piece of Indigenous legislation is the *Northern Territory Aboriginal Sacred Sites Act, 1989*, which protects areas significant under Aboriginal tradition and grants certain rights, including that of access to such areas by Aboriginal custodians (see particularly Chapter 9). The *Crown Lands Act 1992* grants rights to Aboriginal people to access, hunt and take other resources for traditional purposes on pastoral leases. The *Parks and Wildlife Conservation Act* grants similar rights to Aboriginal people over national parks and reserves.

These two classes of rights (native title and statutory rights) share common limitations in that they are defined by the State (that is, by judges or the legislature) rather than by Indigenous law itself, and are therefore vulnerable to impairment or extinguishment by actions of the State (either by legislation or by valid grants by the Crown). While the courts and the legislature take into account evidence regarding Indigenous law, its translation via legal and political processes is open to error and misconstruction (see for example, Keen 1984, Williams 1986). An implication of these limitations is that Euro-Australian law has become a major site for non-Indigenous interpretation and construction of Indigenous cultures.

¹⁵ Australia has a federal system of law consisting of a Commonwealth parliament and legislature and separate state and territory parliaments and legislatures.

However, in speaking of rights to land we must also consider the perspective of Indigenous peoples. Aboriginal people have never ceded their customary sovereignty over the land and recognise their own systems of customary land tenure and other rights over land regardless of the overlying Euro-Australian tenure. Their view sees Euro-Australian rights to land as an exercise of power in the occupation and use of the land rather than as stemming from the legal powers of the State. What is more, they also regard rights afforded them under Euro-Australian law (including native title and statutory rights) as constituting recognition of Indigenous law rather than as a superimposing of interpreted powers conferred by legislation, as a strict legal interpretation would have it.

This disjuncture or incommensurability between Indigenous and Euro-Australian perspectives lies at the centre of the dilemma that the High Court's *Mabo* and *Wik* decisions¹⁶ have exposed - the suggestion that a coexistence of interests in land can be achieved outside of the narrow, increasingly regulated, Euro-Australian constructions of Aboriginal culture.

Cultural landscapes

Following Baker (1999), cultural landscapes as envisioned in this thesis are comprised of both physical and intellectual elements, the sum of a community's physical, intellectual and emotional engagement with the actual landscape. Cultural landscape theorists have differed in relation to the value (Russell 1988) and composition of cultural landscapes, for instance, regarding the inclusion of natural landscapes within cultural landscapes (Mulvaney 1997). Here, I allow for the inclusion of natural

¹⁶ *Mabo v Queensland (no 2)* (1992) 175 CLR 1; *Wik Peoples v Queensland* (1996) CLR 1.

landscapes. This is because an essential element of cultural landscapes is some degree of intellectual or conceptual engagement with the land and this may, in fact, be as far as human interaction is taken. Thus the tracks of explorers and Dreaming ancestors alike bring meaning to the landscape for the members of the respective cultures despite the lack of any human modification of the land. Conversely, the cultural significance of a place may continue despite the erasure of the physical evidences of the past human use of the land that rendered it significant. Cultural landscapes are complex, evolving amalgams of past and present, with intellectual and physical elements emerging and disappearing according to past experience and contemporary circumstance (Baker 1999). The concept of the cultural landscape allows us to extend the notion of a sense of place beyond isolated sites to envisage the relationships that exist between sites (Mulvaney 1997). The utility of such a concept, for instance in informing the protection of the heritage significance of cultural landscapes, rests on the thorny issue of defining significance.

The importance of cultural landscapes to this thesis lies in providing a model for making sense of differing cultural perspectives of land and the effects of this on intercultural relations. Three broad sets of cultural landscapes operate in the VRD: Aboriginal cultural landscapes, non-Indigenous cultural landscapes and the intercultural landscapes which result from the overlap and interaction of the two.

Race relations and power

In the Australian context, race relations continue to be characterised by the existence of marked power imbalances. Power differentials presuppose the existence of resistances as well as accommodations by the less powerful towards the application of power - the difference between resistance and accommodation often being one of

perspective rather than substance. In the VRD, violent resistance against European settlement was brutally answered and relatively short-lived (Rose 1991). Once under the hegemony of the stations, Aboriginal resistance became of necessity covert, relying on interactional strategies for negotiating relations with Europeans and in seeking to maintain an autonomous Indigenous domain. On the other side of the power equation, whites have enjoyed a continuing position of dominance and authority, albeit transformed in the manner of its expression over time from overtly violent and coercive control sanctioned by the state, to forms of more or less implicit control, transacted through interactional practices and supported by entrenched structural inequalities at institutional and community levels.

Cultural domains and knowledge control

Intercultural relations have involved the interaction of vastly different socio-cultural systems of knowledge and knowledge distribution and control. The interaction of these systems has seen Indigenous forms displaced (though not destroyed) in interactional contexts, by those of Euro-Australians. Indigenous forms, characterised by strongly developed principles of rights to knowledge and information and processes of reciprocal exchange, have largely been overlooked or misunderstood by whites at the local level – with the effect that knowledge that might have been forthcoming through respectful interaction, has remained unavailable.¹⁷ In this context Aboriginal action involving the withholding of such knowledge and its structural consequence of maintaining a separate and autonomous Aboriginal domain, can be better seen as resistance to European control and interference. A further consequence of this strategy has been that Euro-Australians, particularly at a local level, have remained largely

¹⁷ Evidence that such knowledge was potentially available to whites is found in the numerous instances of Aboriginal people supplying detailed information to anthropologists and other sympathetic whites who were able to establish relations of trust and reciprocity.

unaware of (and therefore, in Aboriginal terms, without authority in relation to) the principles and details of Aboriginal cultural attachment to land.

Euro-Australian knowledge systems have been uncritically imposed on Aboriginal people - both through local interactions with whites, as well as through the various interventionist policies of governments – segregation, assimilation and most recently, self-determination. The approaches of governments in addressing identified ‘needs’ in Indigenous affairs policy have concentrated on systems of ‘rational administration’, including special legislation. Increasingly, across the spectrum of intercultural relations, ‘consultation’ has become the standard process for formal cross-cultural interactions. However, as an imposed rather than participatory practice, consultation is itself problematic, particularly in view of the difficulties power relations and cross-cultural communication present for either side (see Chapter 11).

A concerning side-effect of these more recent patterns of formal interaction through legislative and consultative processes, is an increasing pressure on Aboriginal custodians to disclose cultural information which previously had been controlled within an autonomous Aboriginal domain. This has presented considerable dilemmas for custodians. In some instances, the disclosure of cultural information is required in order to obtain non-Indigenous recognition - for instance, of rights to land or the protection of sacred sites. But the price of this is often the potential to lose control over the information or to see its socio-cultural significance diminished or compromised by its entrance into the non-Aboriginal domain (Rose 1996a). For cultures based on oral and experiential transmission of knowledge, its permanent recording and access by non-Indigenous interests has the potential to destabilise Indigenous authority structures and to act as a point of leverage to force their compliance. Alternatively, where Euro-Australians have been denied such information in the past, they are frequently sceptical and disbelieving when eventually confronted with its existence.

This is a serious problem in remote pastoral country such as the VRD. Either way, it is Indigenous cultures and communities which stand to be disadvantaged.

Social justice and ‘substantive’ and ‘formal’ equality

There exists among white Australians a widespread belief that Indigenous Australians receive ‘unfair’ ‘special privileges’ not enjoyed by the rest of the community. A common approach of those mounting such an argument is to invoke the ‘Australian’ belief in a ‘fair go’, defined as the concept of equal treatment for all, regardless of race. Taking up the theme one journalist who is frequently vocal on the issue wrote that:

the perception that Aboriginal Australians have access to a greater number of benefits and enjoy preferential treatment by government agencies, disgusts growing numbers in the community (Piers Akerman, The Sunday Telegraph, 5 April 1998, ‘Where’s the fair go?’).

Akerman concluded that increasing racial problems in Australia ‘are largely caused by an increase in race based laws’. This theme was also a centrepiece of the ruling Country Liberal Party’s successful ‘two laws’ campaign for the 1997 Northern Territory elections. The current Federal Government too, is driven by a core philosophy of ‘formal equality based on European values’.¹⁸

However, such views fit within an ideology which is fundamentally assimilationist and, in terms of international standards, discriminatory towards Indigenous peoples. Concepts of equality and non-discrimination have been developed within international

¹⁸ Margot Kingston, *Sydney Morning Herald*, 6 March 1998, ‘Selling Howard’s Way on Wik’.

human rights law, and are defined according to a standard of *substantive equality* rather than the more limited notion of *formal equality*. Substantive equality has two defining aspects:

- *substantive equality focuses on the effect of a law, rather than merely whether its formal wording is non-discriminatory and*
- *substantive equality entails granting appropriately different treatment to differently situated social groups, so as to avoid entrenching discriminatory systems by treating differently situated people in exactly the same way. This requires isolating the relevant differences on which differentiation is permissible.*¹⁹

In other words, treating everyone according to the standard of formal equality will inevitably be discriminatory towards some. And when the standard of formal equality is based on European values, Indigenous peoples and other cultural minorities are the ones who will face disadvantage. Substantive equality sometimes involves ‘special measures or affirmative action’ to redress inequality and disadvantage and to secure the protection of Indigenous peoples’ distinct rights (Dodson and Pritchard 1998:6).

Illustration of the importance of substantive equality is provided by special legislation for the protection of Indigenous heritage. Without the ‘race based’ focus of such legislation, the unique religious and cultural aspects of Indigenous heritage could not be adequately protected (see especially Chapter 9). However, the fact that the protection of Indigenous sacred sites is acknowledged as important by all sides (the issue of what is a ‘genuine’ sacred site notwithstanding) exposes inconsistencies with the sweeping condemnation of all special measures for Indigenous Australians that

¹⁹ ANTaR 1999a.

‘equal treatment’ rhetoric represents.

Recently the Federal Government has taken such rhetoric to the international arena, urging the United Nations to abandon the term ‘self-determination’ (a concept developed within international law) in favour of concepts of ‘self-management’ or ‘self-empowerment’ (terms which as Dodson and Pritchard 1998:6 note, are ‘without any basis in political theory or international law’). The Government’s stated concern with ‘self-determination’ is the term’s suggestion of a separate Indigenous state – this despite the fact that self-determination has been the central policy of Indigenous affairs in Australia since 1972, and that ‘not a single Indigenous organisation...has expressed a desire for independent statehood’ (1998:5).

An important contribution of this thesis will be to demonstrate that social justice for Indigenous Australians cannot be achieved without policies self-consciously based on the standard of substantive equality. Furthermore, in aligning the national value of ‘a fair go’ with the concept of formal equality, those who resist or oppose the standard of substantive equality are propagating assimilationist sentiment which inevitably must come into conflict with the demonstrated determination of Indigenous Australians to maintain the distinctiveness and integrity of their own cultures.

1.4. Chapter outline

The remainder of the thesis is divided in five thematic sections (‘parts’) comprising eleven chapters.

PART 1 examines the role of the contrasting realities of Indigenous and Euro-Australian lives in constructing and maintaining a racially divided society in the VRD.

Chapter 2 highlights differences in the ways Aboriginal- and Euro-Australians experience and reproduce their attitudes and attachments to the land and the degree to which such difference underlies racial division and segregation in the VRD. Accompanying this has been a corresponding intra-Euro-Australian tension between the remote 'frontier' mentality of white VRD locals and the distant populations of the metropolitan centres. **Chapter 3** provides a description of the contemporary VRD community, highlighting its 'racially' segregated nature. The chapter examines the main contexts of local cross-cultural interaction, and finds that the practices and attitudes underlying 'racial' division and segregation in the VRD show significant continuities with those of earlier phases of contact relations.

PART 2 contrasts Aboriginal and Euro-Australian conceptions of place and significance. **Chapter 4** examines in detail the nature of Indigenous attachment to land in the VRD, and reveals how Euro-Australian understanding has failed to recognise or understand the role of evolving traditions and contemporary Indigenous practice in maintaining such attachment and in underpinning Indigenous assertions of rights which flow from it. **Chapter 5** examines the impacts of the Western paradigm of heritage on Indigenous cultures, particularly through its restrictive conceptual framework and resulting processes of representation, codification and regulation which have been applied to Indigenous cultural heritage. This is contrasted with the imperatives of Aboriginal custodians at the local level in the VRD, and finally, is considered against broader community debate linking the 'special needs' of Indigenous peoples regarding heritage protection and other matters, with perceived impacts and impediments on local Euro-Australian and broader national economic interests. Such unfounded views overshadow the real disadvantages faced by Aboriginal custodians in securing recognition of their cultural heritage concerns.

PART 3 introduces theoretical perspectives on intercultural relations and cross-cultural

communication. **Chapter 6** examines the nature and role of power and cultural difference in intercultural settings. The chapter first examines the issues of power and violence in pastoral relations, comparing existing 'domination-resistance' and 'collaborative' models, and finding in the latter an underestimation of the coercive nature of pastoral relations. The chapter shows how the existence of separate cultural domains together with a power-sensitive cross-cultural interactional structure came to assume a major role in mediating and facilitating practices of domination, resistance and collaboration. This pattern of relations still characterises contemporary intercultural settings in the VRD. A number of theoretical approaches to cross-cultural interaction are then considered, highlighting the fundamental differences between Aboriginal and Euro-Australian cultural and conceptual systems and modes of communication which act to increase the level of misunderstanding and disparity in communicative exchanges.

PART 4 takes an historical approach in examining the nature of intercultural relations during the era of Aboriginal servitude on pastoral stations in the VRD, and traces the reconfiguration of intercultural relations and changes in administrative practice which accompanied the evolution of Indigenous status from 'station black' to 'Aboriginal custodian'. **Chapter 7** examines the latter half of the period during which Aboriginal lives were dominated and controlled by station owners and managers as a result of the expansion of pastoral leases over virtually all traditional lands. This period, from about 1930 to 1970, and particularly the post-World War II period, established a coexistence between black and white which, while remaining in the shadow of repressive and sometimes brutal treatment of station Aborigines, also included a degree of acceptance (although often without a corresponding degree of understanding) of Aboriginal cultural attachment and use of land. Such acceptance is no longer widespread today amongst the non-Indigenous community of the VRD. The chapter examines the conditions of this former coexistence, using as a case study the example

of Auvergne Pastoral Lease near the town of Timber Creek. **Chapter 8** charts the process of estrangement in pastoral relations from about the 1960s, coinciding with a number of related parallel developments. These included: moves to introduce citizenship rights and equal wages for Aboriginal people; strike action by Aboriginal workers on some VRD stations; and the resulting establishment of independent Aboriginal communities, no longer under the control of pastoralists. During this period land rights and sacred site protection emerged as significant issues, in reaction to which pastoralists developed a deepening scepticism and hostility towards Aboriginal cultural interests on pastoral leases. The chapter concludes with an examination of the underlying issues for pastoralists and Aboriginal custodians in the contemporary context.

PART 5 examines the changed socio-political landscape of the post-1960s, which I term the 'heritage era'. **Chapter 9** contrasts the differences between Aboriginal and non-Indigenous approaches to protecting sacred sites. The chapter deals with the expectations and difficulties caused by the emergence in recent decades of legislative solutions to Indigenous heritage and land needs, and compares the statutory regime for Aboriginal sacred site protection in the Northern Territory with past and present Aboriginal strategies for protecting such sites. The chapter examines the features and deficiencies of the *Sacred Sites Act* and contrasts this with current moves to amend Commonwealth Indigenous heritage legislation. It is concluded that statutory regimes fall far short of their stated and assumed potential and require additional complementary measures in order to bring equity to Indigenous stakeholders. **Chapter 10** presents three case studies which examine different aspects of intercultural dealings over sacred sites and development interests in the VRD. These case studies emphasise processual, power and communication issues and demonstrate the relative disadvantages often faced by Aboriginal participants in cross-cultural encounters, even where these are convened under supportive statutory frameworks. **Chapter 11**

examines processes of 'consultation' which have increasingly come to mediate relations between Indigenous and non-Indigenous Australians, both within formal legislative regimes as well as in non-statutory contexts. Building on the case studies in Chapter 10, the chapter considers the appropriateness of consultation processes, canvasses alternative processes such as negotiation, and suggests a set of criteria for approaching intercultural encounters in a culturally-sensitive and equitable manner.

Chapter 12 summarises the issues raised in the preceding chapters against the standard of substantive equality. The chapter identifies a number of intersecting contexts and elements which are critical to the recognition of contemporary Aboriginal heritage interests in the VRD. Such recognition requires an acceptance of Aboriginal difference and cultural autonomy. The chapter endorses a multi-stranded approach to the issues which utilises appropriate legislation together with adequately resourced independent heritage bodies and Indigenous representative organisations to provide basic protection of Indigenous cultural rights and interests, and to facilitate and encourage voluntary negotiated solutions. On pastoral land, the lack of support and opportunity for negotiated solutions in the current political climate is also squandering a significant though rapidly diminishing cultural capital, in the form of shared knowledge and experience of an earlier coexistence on the stations, which can assist in fostering understanding and goodwill between landowners and Aboriginal people. A central conclusion of the thesis is that more attention must be given to the everyday aspects of cross-cultural interaction and to entrenched attitudes based on race which continue to divide community opinion, in formulating and implementing policy with respect to Indigenous land issues. The current process of reconciliation, while in difficulties under the policies of the present Federal Government, presents, in the long term, one of the key tools for effecting positive change in attitudes and practices.

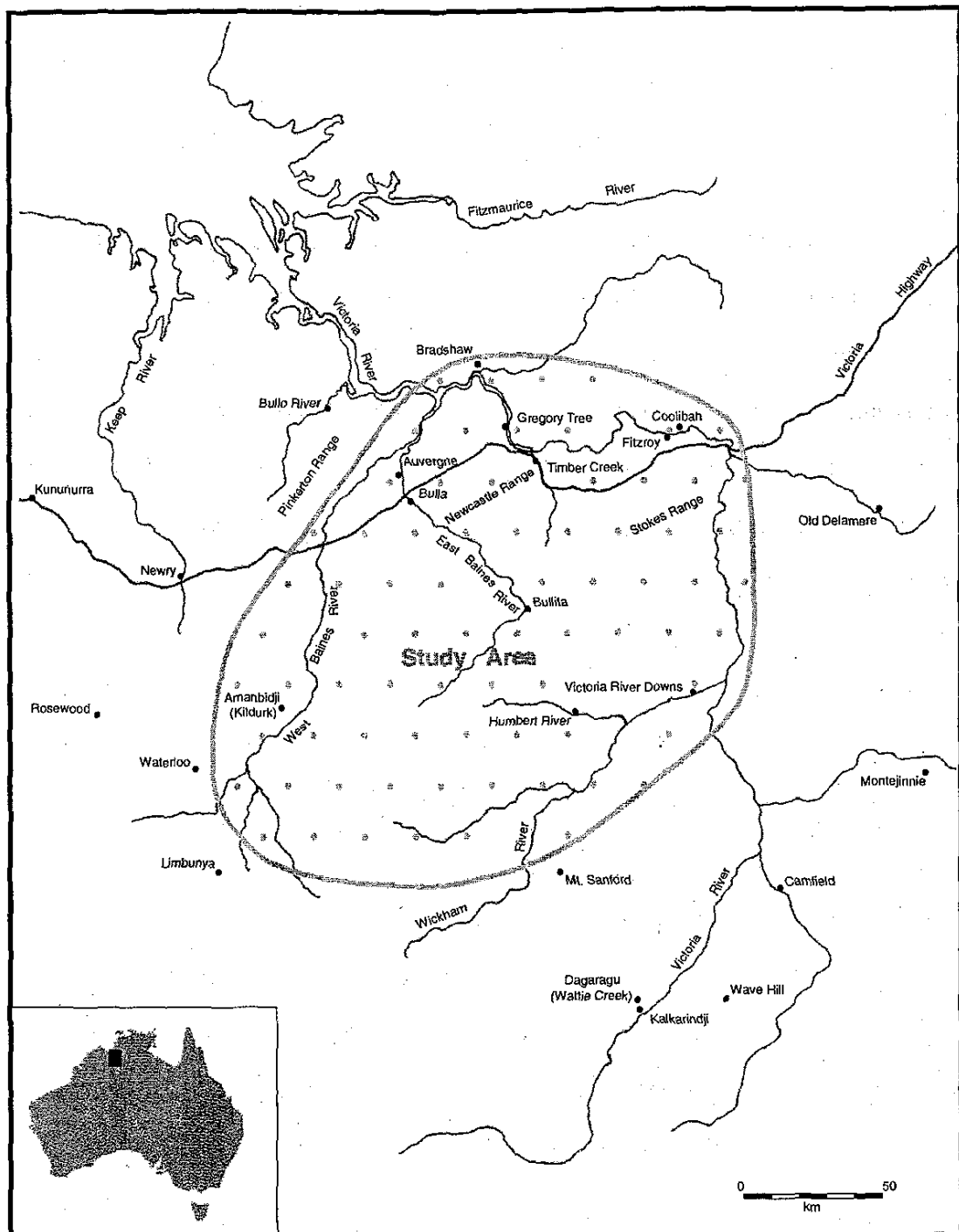


Figure 1: Location map showing study area and places mentioned in the text.

PLATES 1-6



- Plate 1:** Custodians inspect a site from where a sacred boulder was stolen. The site was registered by the AAPA and sign-posted at the time. Earlier damage caused by the construction of a station fence and track left the site accessible and vulnerable.
- Plate 2:** Stump of a sacred tree cut down beside a station homestead. Traditional owners of the area were not consulted by the station manager before the tree was cut down.
- Plate 3:** Remains of the sacred tree from Plate 2. These remains were still regarded as spiritually important by custodians of the site.
- Plate 4:** Concrete weir built across Timber Creek without consultation with custodians. The area is part of an important local Dreaming track.
- Plate 5:** There are many sacred trees, such as this registered (but unsign-posted) tree beside the Victoria Highway, which are in vulnerable locations beside highways and roads.
- Plate 6:** Severe land degradation on the fragile soils of the Auvergne floodplain.

PART 1:

SEPARATE REALITIES, SEPARATE

LIVES

CHAPTER 2: LANDSCAPE AND ‘RACIAL’ DIVISION IN THE VRD

2.1. Introduction

Land has provided the driving motivation for black/white interaction since the British arrived on Australian shores in 1788 to establish a penal colony intended to relieve chronic over-crowding in English prisons. Thus began a process of the systematic dispossession of Indigenous groups, who nevertheless stubbornly resisted the invasion of their lands as best they could. Over 210 years later, land remains at the forefront of an Indigenous political agenda which seeks to break down the entrenched resistances of governments and non-Indigenous sectional interests towards recognising Indigenous cultural links to land.

Struggle over land is indicative of the fact that landscape and identity are intimately related. The first European explorers discovered and named an unfolding landscape which, with ongoing European occupation, is now permeated with iconic significance and geographic familiarity: the ‘outback’, the ‘bush’, Sydney Harbour, Lake Eyre, the Simpson Desert, Kakadu, the Gold Coast etc. Over the same period a parallel but entirely different landscape has existed within the cultures of Indigenous groups. The culturally constructed landscape reflects and supports the identity of its creators - it is a mirror to their language, conceptual systems and sense of self. However, the terms of that identity are radically different for each culture. And the fact that these cultural landscapes overlies each other means that conflict over land and with it, conflict over identity, is an inevitable consequence. This chapter seeks to examine the ways different identities and views of the landscape are relevant to the history of racial division in the VRD.

The chapter will show how the deep division which characterises intercultural relations in the VRD is reflected in the conceptual systems with which each side orders and understands the world around them. In attempting to assert European control over the land against concerted Aboriginal resistance, the invaders used more than their superior weaponry, enlisting also the full force of colonial ideology and Eurocentrism to the task of constructing an Aboriginal 'other' against which European hegemony would seem both natural and beneficial. This onslaught of ideology has been applied on every level, including the new landscapes encountered by whites. These landscapes, along with Aboriginal groups continuing to exist on them, were divided according to European values of productivity and worth.

2.2. Sandstone and rangeland: landscape and 'racial' division in the VRD

The strongly differentiated physical character of the VRD landscape has had a significant bearing on Indigenous and white relationships with the land as well as with each other. Across the central and northern portions of the Victoria River catchment are a number of ranges of sandstone plateaux (including the Stokes and Newcastle Ranges) which divide the extensive pasture lands of the catchment (see Figure 3).¹ To the south are the semi-arid grasslands of the upper Victoria River catchment which give way to the sub-tropical grasslands and grassy woodlands extending northwards to the coastline. In the past, this marked physical contrast between the rugged, sandstone plateaux and the pasturelands of the flat downs and floodplains (these

¹ In Figure 3, pasture lands are found mainly on colluvial sands and black soil plains; and basalt plains.

environments together comprising much of the VRD landscape), determined which areas were initially appropriated by Europeans for cattle and those which remained, at least for a time, refuges for Aboriginal groups that traditionally occupied such areas, together with others displaced from their land by the violence of the frontier. In the first two decades of the pastoral invasion most of the prime lowland country suitable for cattle came under European control, creating deeply divided physical and cultural landscapes. Aboriginal groups faced a stark choice - to submit to pastoral servitude and receive 'rations' in return for their labour, or to try to remain outside the control of Europeans by sheltering in the rugged sandstone country and evading the efforts of police and retaliatory parties seeking to 'disperse'² them from the area. Those who chose the latter course were referred to as 'bush blacks' or 'myalls'³, becoming an integral part of a wild, untamed and dangerous frontier invoked by white settler groups in seeking resources from metropolitan administrations and in rebuffing interference from sections of the broader white community concerned about the reported slaughter of Aboriginal groups throughout the ever-expanding pastoral frontier.⁴ In European discourse of the time, 'bush blacks' and 'myalls' were contrasted with 'station blacks', who lived under the control and 'protection' of pastoralists, and who were seen as controllable and useful as workers if trained and treated the right way.⁵ Thus, in the

² 'Dispersal' was widely used as a euphemism for the harassment and murder of 'bush blacks' who resisted or interfered with the European settlers. In Queensland 'dispersal' was the commonly used euphemism in official bulletins, especially relating the Native Mounted Police (see also this chapter at note 12).

³ The term 'myall' was used by both whites and station Aborigines in relation to Aboriginal people who remained away from the stations and other rationing centres and who were largely ignorant of European culture, goods and skills. See Dixon et al. 1990 for an etymology of this word.

⁴ With little or no control, punitive parties went in search of those who speared cattle or whites. In fact the killing of 'myalls', though not officially sanctioned, was carried out by police stationed in the VRD from 1894. The first of these, Mounted Constable Willshire, later wrote a detailed account of his experiences (Willshire 1896). In 1898 the police station was relocated from Gordon Creek on Victoria River Downs to Timber Creek.

⁵ Such terms established a hierarchy of Aboriginal worth in the eyes of Europeans according to the perceived level of 'civilised' standards they possessed - standards which also involved gender considerations. For example, male myalls or bush blacks were often referred to as 'bucks', reflecting a status of animality, while females were referred to as 'gins', a term also

colonial imagination both the landscape and Aboriginal people were divided according to European values of productivity and worth. The 'sandstone country' and 'myalls' were associated together as unproductive and wild and constructed in opposition to the civilising and productive effects of the European invaders on the rangelands and station blacks.⁶

However, the disjuncture inherent in European occupation, use and categorisation of the land according to its ability to support cattle or other 'productive' enterprises was not shared by Aboriginal groups, whose territories formed a continuous system of land ownership and land use over the entire landscape. Within this system, Indigenous groups recognise different landscapes in terms characteristic of *their own* cultural values. Thus, while Aboriginal people sometimes refer to groups by the names of the different kinds of landscape they occupy - ie, as 'desert' people, 'sandstone' people, 'river' people and 'saltwater' (coastal) people etc. - such terminology presupposes a more complex and significant basis of both difference and relatedness between these groups in the form of unique and shared religious traditions relating to specific tracts of land.

For instance, in this part of the VRD, one way in which the distinction between 'desert' and 'saltwater' people is manifested is in religious tradition concerning the didgeridu - a

used for female station blacks. Adult male station blacks were often referred to as 'boys', that is, as developmentally and in status inferior to European adults. Other terms such as 'nigger', 'darkie' and 'Abo' were also commonly in use. Significantly, while these terms are no longer widely used a similar ranking of worth is still apparent in the terms which have come to replace them. Thus currently-used terms such as 'full-blood' and 'traditional' can be used to contrast the lack of 'traditionality' of 'half-castes' or 'yella fellas', the latter terms being commonly in use in the Northern Territory to refer to Aboriginal people of mixed race parentage (see below in this chapter for further discussion).

⁶ In reality there was considerable movement between bush blacks and station blacks reflecting a complexity of cultural and political imperatives informing Aboriginal responses to white domination (see, for example, Shaw 1986:5,18, and also Chapters 6 and 7 below). European analysis of these dynamics at the time was crude although Rowse (1987) observes how some pastoralists, such as the Duracks, used trusted Aboriginal workers to negotiate and mediate the interface between bush blacks and the stations.

long wooden instrument made from termite-hollowed saplings which is used by 'saltwater' people to produce a rhythmic drone to accompany ritual performances of song and dance. 'Desert' people do not use the didjeridu, but instead use two boomerangs as 'clap sticks'. Accordingly, an important tradition for the area traces the origin of this cultural distinction in the attempt of the Blanket Lizard (Frill-Necked Lizard) to play the didjeridu as he moved southwards from the coast. Eventually the Blanket Lizard "ran out of wind" (ie, he could not blow anymore) and threw it away. A Dreaming track traces the path of the Blanket Lizard across the land from north to south. Along the way, various features of the landscape embody the activities of the Blanket Lizard and his interactions with other ancestral beings encountered at various places. These parts of the landscape are commonly referred to as sacred sites.⁷ In these ways the land, the cultural practices which take place on it, and the knowledge traditions about it conform to a pre-existing, self-reinforcing order. For instance, in the example given the didjeridu provides a way of representing both cultural and landscape difference between the coastal tropical woodland country (from which didgeridus are procured), and the desert country which lacks woodlands suitable for didjeridu making. Thus, from an Indigenous point of view, the connection of people and place and the differences between people and places, arises from a pre-existing order referred to by VRD Aborigines as *ngarranjari* or *puwarratj* or by its English equivalent, the Dreamtime or simply the Dreaming.⁸

2.3. Frontier v 'settled' landscapes

The above gives some clues as to the major points of difference between Euro-

⁷ See Chapter 9 for discussion of this term, including confusion resulting from its variable usage.

⁸ Stanner 1979. The following chapter provides further discussion of the Dreaming landscape.

Australian and Aboriginal conceptualisation of the VRD landscape, while at the same time hinting at a major inconsistency in the former's position with respect to the views of the broader non-Indigenous community, particularly in the metropolitan centres. These issues centre around the distinction between 'settled' and 'wild' or 'untamed' land (see Griffiths 1997:9-10). On the one hand the VRD has always and continues, to some degree, to be characterised in Euro-Australian terms as a frontier - wild, remote and dangerous. And yet at the same time it has served as the familiar home both for those whites who chose to 'settle' and for the Indigenous population who see their own settlement as originating from the actions of ancestral Dreaming beings, such as the Blanket Lizard, in an eternal past. Understanding the significance of these distinctions requires us to return to the history of contact in the area.

The idea of the VRD as a frontier was very real to the first wave of whites who attempted to take up land, because for a considerable period of time they were outnumbered and under sustained attack from Aboriginal groups attempting to expel the invaders from their traditional lands. Lindsay Crawford, the first manager of Victoria River Downs wrote in 1894:

*during the last ten years, in fact since the first white man settled here, we have held no communication with the natives at all, except with the rifle. They have never been allowed near this station or the outstations, being too treacherous and warlike.*⁹

In overcoming this obstacle to development, the white invaders faced a by then familiar conundrum - familiar as a result of the previous century of violent dispossession of

⁹ Quoted in Rose 1991:29.

Indigenous groups in other parts of Australia.¹⁰ On the one hand they needed to emphasise the scale and seriousness of conflict between themselves and Aboriginal groups to the metropolitan administrations in order to justify a police presence,¹¹ but on the other, the actual extent and nature of the violence also had to be kept secret, or at least unrecorded, so as not to attract the attention of groups seeking to halt the unchecked killing of Aboriginal people on the frontier. The solution was a 'conspiracy of silence'¹² which has had the effect, in common with other parts of Australia, of suppressing and effacing the extent of violence against Aborigines from much of the recorded and oral European history of the VRD (Rose 1991). This was carried out on the basis that the critics were 'philanthropists' and 'uninformed sentimentalists' from 'safely settled areas' who did not have to contend with 'treacherous blacks' (Durack 1974:303-4; Rose 1991:20-23). At the same time, it was widely understood what was really happening.¹³ Thus, the frontier held an ambiguous/ambivalent place in the colonial imagination with issues of morality and pragmatism dividing white opinion. In fact, this schism has become a structural feature of relations between metropolitan and rural/remote Australia and is no less apparent in more recent tensions over land rights, sacred site protection, and native title. In each of these policy areas the politically influential pastoral lobby has vigorously fought to counter the concerns of largely urban based supporters of Indigenous cultural rights over land. In contemporary

¹⁰ European settlement in the VRD came some 100 years after the first settlement at Port Jackson in 1788. This meant that issues of violence against Aborigines in remote areas and on the frontiers, was already a significant issue (see, for example, Reynolds 1996 [1987]: 58-62, 83-92; 1998).

¹¹ See also at note 4 in this chapter. Gaining such resources from governments was not easy. The first police presence in the VRD occurred in 1894, largely as a result of requests from the larger company owned pastoral holdings (such as Victoria River Downs where Lindsay Crawford worked). Lowenthal (1997:231) notes that, in contrast to the American frontier, the Australian frontier was more commonly regarded as 'an impoverished periphery to be ignored'.

¹² Durack 1974:286. For an example of official action aimed at suppressing the truth of killings see Reynolds 1990:63-4, discussing the Queensland Native Police.

¹³ See, for example, 'The Way We Civilise', editorial by Gresley Lukin in *The Queenslander* newspaper, 1 May 1880, or Watson 1998:109-12 for a discussion of Lukin's editorial campaign to stop widespread atrocities being perpetrated against Aboriginal people on the frontiers. Stocking of the VRD and East Kimberleys began in the early 1880s, principally by Queensland pastoralists such as the Duracks and Nat Buchanan.

development discourse too, the 'frontier' continues to be a concept which has value in the promotion of the 'productive' potential of remote areas for resource development projects, tourism and nature conservation, stimulating concerns about the impacts of such development on local Indigenous communities.¹⁴

In contrast, local Indigenous communities have little affinity with the concept of 'frontier' in representing and relating to land. The land in its entirety is regarded as culturally settled - and not simply by Indigenous land-owning groups themselves, but more significantly, by the Dreamings - the ancestral creator beings - which continue to reside in the land and which provide the ontological (ideological) basis for the very existence of such groups. According to their world view, these are the title deeds to land and, without them, Europeans had no basis for appropriating and settling the land. Whites, however, secure in the belief of their own cultural superiority and operating under the flawed doctrine of *terra nullius*,¹⁵ appropriated land by force, and any acknowledgement of prior or existing rights to land of Aboriginal groups are mere footnotes in the recorded history of European occupation of the VRD.¹⁶ Many whites continue to deny Aborigines a traditionally-based right of settlement of the land. For example, in more recent times, the Northern Territory Government together with sectional interests amongst the broader community, have sought to defend Euro-Australian authority over land by opposing Aboriginal claims to land which are based on cultural notions of a pre-existing and continuing spiritually-based 'settlement' of the

¹⁴ See for example, Howitt and Douglas 1983, Coombs et al 1989. See also Trigger 1997 for an analysis of development ideology in relation to the mining industry in Australia.

¹⁵ See at note 2, Chapter 1 above.

¹⁶ Watson (1998) shows how memoirs of the pastoral frontier of the late 1800s, with a few notable exceptions, omitted or ignored details of Aboriginal ownership, occupation and use of the land and of the extent of their demise from it. However, Reynolds 1996:138-41, reminds us of the considerable knowledge and understanding of Aboriginal society which existed by the 1840s – forty years before the frontier reached the VRD.

land.¹⁷

So, the concept of a settled landscape has been and continues to be critical to the cultural struggle over land in the VRD, although Aboriginal and white notions of what is meant by 'settled' differ fundamentally. From this perspective, the 'frontier' evoked a conceptual space relevant only to an internal Euro-Australian discourse, within which it denoted an evolutionary stage in the colonial project of creating an economically productive, settled landscape.¹⁸ Aboriginal people were included in this vision largely as foils to the superiority and inevitability of European civilisation.

At the same time, each in their own way can be seen to have 'settled' the land not simply by force of their own presence but more significantly, through their distinctive cultural knowledges which give meaning to the landscape and which mediate their actions within it. Language, conceptual systems and world views provide mechanisms for imparting actions with a sense of purpose (intentionality) and process. From a cross-cultural perspective, differences in conceptual *processes* of settlement are particularly significant, with Aboriginal settlement presenting an already existing, completed project (the 'Dreaming' or the 'Law') maintained by the current generations, while that of Europeans has sequentially and discontinuously emerged through the suppression of Indigenous peoples and the appropriation of pastorally-valuable lands by force (the frontier).

¹⁷ This has occurred in a number of ways. Claims to land under the *Land Rights Act* based on proving traditional ownership have been actively opposed by the NT Government. Subsequent NT legislation enabling Aboriginal groups who are or were recently residing on pastoral leases to apply for small 'living areas' on such leases, specifically excludes traditional attachment as a criteria for an application on the basis of rejecting a 'land rights approach' to pastoral land (Burke 1991:8). Most recently, in response to the native title debate, the NT Government together with mining and grazing interests have been vocal supporters of solutions involving the extinguishment of native title.

¹⁸ The degree to which this continues to characterise Euro-Australian approaches to land use and planning in the VRD is a concern to which I will return at a later stage.

However, with the shift in focus of the European process of settlement from frontier needs to settled land needs came an opportunity for Aboriginal people to adapt their own shattered lives to a new regime of imposed experience. For them, the frontier was foremost a matter of physical survival, while an established regime of rationed servitude required a different kind of survival - one focused on ongoing social needs and the maintenance of a separate cultural identity.

2.4. Landscapes of co-existence

By the 1930s, most of the remaining Aboriginal groups which had sought refuge in the sandstone country had left and joined other surviving kin groups in centralised communities at station homesteads and at regional supply and service centres, such as 'The Depot', later to become Timber Creek. But this was anything but a complete capitulation of their cultural identity or autonomy. In this it is ironic that in creating the conceptual and real space of a settled landscape of pastoralism, Europeans also created an opportunity, where the frontier had offered none, for Aboriginal groups to negotiate a tenuous, grimly pragmatic co-existence of their own cultures and cultural landscapes with those of Europeans. There are a number of aspects of the resulting unequal coexistence which are relevant here.

Firstly, the relationship was fundamentally one of power and available to Aboriginal groups only by submitting to European control. Nevertheless, stripped of the power to threaten European occupation and domination, and constituting an essential source of labour in making pastoral stations economically viable, Aboriginal communities were able to maintain cultural practices and links to the land, often without the knowledge of

or with minimal direct interference by Europeans.¹⁹

Secondly, this coexistence came at the cost of considerable changes to the ways in which Aboriginal people occupied, used and even conceived the landscape. Pastoral work and schedules established a new set of experiences related to the land which gradually became incorporated into the Aboriginal cultural domain, creating an Aboriginal community with a distinctly pastoral focus. At the same time the altered patterns of Aboriginal access and use of country imposed by pastoral work regimes resulted in permanent changes to the basis of direct knowledge and experience of the land.²⁰

Thirdly, to the extent that these new experiences were shared with whites, mutually-held ways of viewing and relating to the land were created. Thus, over time, pastoralism - the impetus for engaging with 'frontier' lands - established and continues to provide a common structure through which both black and white conceive and talk of country in terms which project its familiarity and predictability. In other words, what was created was a kind of culturally-intermediate landscape within which and about which cross-cultural interaction took place.

A further significant aspect of the coexistence which developed on pastoral stations was that it involved conditional white acceptance of broad aspects of Aboriginal attachment to and use of country (see Chapter 7). Such acceptance is seen in the institution of the 'holiday' or seasonal layoff during the pronounced wet season in northern Australia when pastoral work became impractical. During this time Aboriginal

¹⁹ Many pastoralists adopted a pragmatic approach to Aboriginal "tribal" matters, and did not intervene unless there was an impact on station work or security (see Chapter 7).

²⁰ For instance, cattle work took place away from rugged sandstone areas inaccessible to horses and cattle, resulting in such areas becoming more seldomly accessed. In more recent times reliance on the use of vehicles, with their more limited access capabilities over rough or waterlogged terrain, has shrunk further the areas available to effective or regular access.

workers and their families returned to the bush for what whites referred to as 'walk-about', but which for Aboriginal people meant a time of visiting sites and country and meeting with other groups for corporate ceremonial gatherings. These activities ranged over country which included the former sandstone refuge areas, which by now, as areas no longer containing the threat of dangerous 'bush blacks', nevertheless continued to represent a landscape regarded by whites as an Aboriginal domain.²¹

2.5. A battle of conceptual landscapes

The preceding discussion has outlined an important aspect of human-land relations - that existing independently of the physical landscape are a set of conceptual²² (and cultural) landscapes through which humans engage the real landscape, and each other. Furthermore, these conceptual landscapes differ according to differences in cultural understandings and preconceptions, creating the grounds for misunderstanding and conflict. In the case of differing European and Indigenous conceptual landscapes, such misunderstanding is of a profound nature, particularly with regard to the lack of European understanding of the nature and extent of Aboriginal spiritual and cultural attachment to the land. This has meant that Euro-Australian conceptual landscapes have largely continued to exclude an Indigenous presence.

Frontier-related concepts are a good example. As has been suggested, the frontier has

²¹ However, when Aboriginal communities later moved off the stations to independent communities (see Chapter 8) pastoralists regarded the lack of Aboriginal access to such areas as invalidating any claim to ongoing cultural attachment.

²² I use the term 'conceptual landscape' here in the sense of being a component of a more complex cultural landscape in much the same way that concepts are an integral part of a culture.

never entirely disappeared from the world view of Euro-Australians. While its discursive role has diminished as a result of increasing non-Indigenous control and use of the land (settlement), some of its meaning has attached to more recently-developed terms. One of these has been the concept of 'wilderness' - a Western construct which, although technically located beyond the frontier in the sense of representing landscapes envisaged as without human occupation or interference, nevertheless, in actuality consisted of the same landscapes that 'practical bushmen' and 'pioneers' inhabited. And, of course, the same landscapes which Aboriginal groups own and occupy under Indigenous law. The textual erasure of Indigenous people from the land which the term 'wilderness' envisages, exposes a colonialist heritage which has been well-documented elsewhere.²³ And in the VRD, with a further twist of irony, the landscapes which most closely approximate 'wilderness' and which on that basis have subsequently been sought for inclusion in Gregory National Park, are the same sandstone escarpments and plateaux which proved such a barrier to the exploitative endeavours of pastoralists as well as providing the refuges and non-work-related physical domains of Aboriginal station communities. The 'frontier' and 'wilderness' have become, in more recent times, a marketing angle for metropolitan tourists from both Australia and overseas nostalgically in search of paradigms long lost in the over-developed urban spaces of their home towns and cities and in the cleared 'productive' farmlands that surround them. The exploitation of such yearnings has provided a way of commodifying and bringing into economic production, landscapes which had hitherto eluded the developmentalist ethos of Euro-Australians.

Another significant difference between Euro-Australian and Indigenous viewpoints is that the new land uses associated with tourism and conservation have been made

²³ See for example, Langton (1996). Langton refers to the institution of the 'national park', many of which seek to encompass 'wilderness' areas, as a form of neo-colonialist dispossession. Wilderness has also come to feature in non-Indigenous conflict between development (particularly of mineral resources) and conservation. See also Chapter 5 below.

possible by the ability to conceptualise and identify potential land to which such uses may be subject. That is, they existed in the first place, in the hypothetical and were subsequently brought into existence by concrete action. This is, in essence, the practice and ethos of modern land-use planning.²⁴ However, it is a perspective with little meaning for VRD Aborigines, who view the land as conforming to a cultural blueprint which, because of its creative origin in the once-and-for-all-time actions of Dreamtime ancestors, resists (but ultimately does not preclude) consideration of land uses which stand outside of this cultural framework. From an Indigenous perspective, 'new' uses of the land may not only make little conceptual sense, but present a real danger of damaging the cultural integrity of landscapes regarded as sentient physical manifestations of Dreaming ancestors and their actions. In other words, whites and Aborigines conceptualise land in fundamentally different ways.

This being said, it is also true that conceptual and cultural landscapes are ultimately (and formatively) dependent on the actual experiences which take place on and in the landscape. In other words, conceptualisation is founded on experience which continually and incrementally acts to modify cultural frameworks over time. For example, in enabling the coexistence of imposed pastoral activities with continuing though restricted traditional cultural use of land, the pastoral industry facilitated the incorporation of this new use of the land into the world view of pastorally-based Aboriginal communities. An indication of the strength of this incorporation is that, even though the extent of Aboriginal involvement in white-owned pastoral stations has reduced dramatically since the late 1960s, Aboriginal communities with a strong pastoral background view the cattle industry as an acceptable and even desirable option for communities to take on independently of whites. It is an example, perhaps

²⁴ See Jackson (1998) for a detailed account of planning's theoretical underpinnings and its 'complicity in the colonial domination over space' and Indigenous populations in northern Australia.

more than any other in the VRD, that illustrates how conceptualisation of the land is contingent on the social and cultural activities and practices which take place on it. Even an ideological foundation as apparently unchanging as the Dreaming is no less resistant to such processes. Pastoralism in the VRD presents an illustration of how 'colonising practices overrode and transformed the profoundly spatial character of the Aboriginal social order' (Merlan 1998:169) yet failed to shatter the ideological certainty on which the social order is based. European relations to land are equally affected by ongoing experience of and in it. In the pastoral context of the VRD, many whites have, over time, forged a personalised, cultural landscape where previously the frontier had presented an alien and hostile environment, albeit one with much potential. This personalised level of interaction with the land has in fact become one of the criteria with which pastoralists have defended pastoral use of the land against alternative claims based on Indigenous and ecological values (Gill 1997).

On the other hand, where experience of and involvement in new land uses is limited or non-existent, Aboriginal attitudes are likely to be determined according to the established nature of their relations with whites, as well as their dealings with those undertaking the land use. In this respect, most introduced land uses in the VRD and east Kimberley have continued to be a cause of concern to Aboriginal people, underscoring the failure of government and private interests to establish relationships of trust and to adequately involve Aboriginal communities at either the planning or implementation stages of development projects (see also Coombs et al 1989; Jackson 1998). For instance, the failure of the Northern Territory Parks and Wildlife Commission to involve local Aboriginal communities in joint-management approaches to the large areas now held as national parks represents a lost opportunity for establishing a mutually-beneficial coexistence of interests with obvious short and long-term benefits for both sides. Instead, interaction between the two groups over land subject to such uses has at times involved more of a battle between contrasting

conceptual landscapes than a cooperative experience, failing to engage Aboriginal communities in ways which might result in their constructive and willing participation.²⁵ These land uses have thus created new fields of contestation through which differing cultural and socio-economic values are brought to bear in discussion about country.

A similar situation exists with respect to other major Euro-Australian land uses encountered in the VRD - exploration and mining. From an Indigenous point of view, mining threatens the physical integrity of a sentient Dreaming landscape - and the closer such activity occurs to sacred sites, the greater the concern that is generated.²⁶ Attempts to deal with such concerns have sometimes elicited explanations from custodians that the special substances which mining seeks to extract from the earth have been put there by Dreaming beings themselves.²⁷ Such explanations, often regarded as post-rationalisations or 'elaborations' (Keen & Merlan 1990) set up a situation whereby what is legitimate Aboriginal concern about, or opposition to, exploration and mining proposals tends to be misinterpreted by whites as illegitimate attempts to block development or force monetary compensation.

In contrast, the emergence over the last two decades of legislation providing for the

²⁵ For example, one of the traditional owners of Auvergne Station expressed a greater trust in the white station manager over the Parks and Wildlife Commission to look after his traditional country, commenting to me one day that he had 'told him that [park] ranger to stay out of my country, keep his hand out of my country'. Ironically, it was a particular Dreaming track containing an unusually abundant population of the wildlife species which is the Dreaming's totem, that was the focus of his comments.

²⁶ Evidence that it is not mining per se which is of concern to VRD Aboriginal people is suggested by the interest of some in possible mineral deposits they have discovered. Over the years a few people have told me about the existence of such deposits however, as with Hardy's experience with Pincher at Wave Hill (Hardy 1968:179,186,216), and Durack's experience of Boxer at Argyle (Durack & Durack 1935), none has chosen to involve whites directly in either confirming or developing the deposits. Their reluctance is undoubtedly related to their lack of trust in whites. For a further east Kimberley example see Dixon et. al. 1990.

²⁷ For example, in reaction to the proposed mining of gold at Coronation Hill (known as Guratba to its Jawoyn custodians), senior custodians of the site explained that the gold was the blood or essence of Bulardemo - a powerful and dangerous ancestral being associated with the site (Keen and Merlan 1990).

protection of sacred sites and allowing Aboriginal groups to claim certain categories of land on the basis of demonstrated traditional attachment and spiritual responsibility for it, has created conceptual landscapes some see as threatening non-Indigenous values and amenity of the land. This is seen as privileging traditional authority over such land at the expense of non-Indigenous control and use of the land.²⁸ At the same time, the granting of land to Aboriginal groups under inalienable tenures (particularly where this has involved pastoral leases), has been criticised as removing the land from 'productive' (ie, economic) use.²⁹

Relevant here is the fact that 'language...gives space its meaning' (Carter 1987:174), and that in categorising and naming land, we simultaneously suppress or exclude its other possibilities of being, at least to the extent that such categories and names are privileged in social discourse. The category of 'pastoral leasehold land', for instance, excludes the simultaneous consideration of Aboriginal customary ownership, custodianship and traditional uses of the land. Similarly, in extending legal recognition to customary aspects of land relations and creating the categories of 'sacred site' and 'Aboriginal land', non-Indigenous interests are perceived to be over-ridden, to the alarm of many whites. However, the extent of the privileging of Euro-Australian land categories can be seen in the fact that the existence of such categories and the criteria for recognising them has been determined by Governments – not by Indigenous people themselves. Recent experience in Australia concerning native title has underscored the magnitude of such privileging. The belated recognition of native title

²⁸ In the Northern Territory land claimed under the *Land Rights Act* is held under an inalienable freehold title by Aboriginal land trusts, and provides significant rights to Aboriginal traditional owners to control non-Indigenous access and use of the land. Sacred sites protection legislation creates rights for Aboriginal custodians to prevent the misuse of or damage to sacred sites on non-Indigenous owned land, however, title to the land is otherwise unaffected (see Chapter 9 for further discussion of sacred sites legislation in the Northern Territory).

²⁹ See, for example, the article by David Barnett, 'Aboriginal control proves disastrous' *Australian Financial Review*, 11th September 1997, and the discussion in Reeves 1998: 553-61.

under the common law after more than two centuries of European occupation has been followed by legislation which, amongst other things, has validated otherwise unlawful acts of extinguishment of native title by the Crown and facilitated the upgrading of some non-Indigenous land titles at the direct expense of existing native title rights over the same land.³⁰

In summary, we can say that human-land relationships have both conceptual and experiential components, each of which discursively influences and acts upon the other, creating a continual, incremental re-shaping of relations which, nevertheless, privileges the *status quo*. In cross-cultural contexts disparities in conceptual and experiential understanding lead to misunderstanding and conflict. It is worth considering the nature of such disparities in more detail.

2.6. 'Interactional' v 'transactional' relations to land

In the above analysis of the two cultures' relations to land a significant difference to emerge is the tendency of non-Indigenous conceptualisations of land to be speculative or hypothetical. Indeed, in the initial phase of European settlement of the Northern Territory,³¹ land was often sub-divided and acquired directly from maps by speculative buyers without any inspections of the land.³² This illustrates a significant difference between Indigenous and non-Indigenous relations to land in that for whites its ownership, disposal, and the establishment of new land uses on it requires no existing or ongoing personal interaction with the land itself.

³⁰ See, for example, Clarke 1997.

³¹ The Northern Territory was a part of South Australia until 1911 when it was transferred to Commonwealth administration.

³² This was termed 'map grazing' (Watson 1998:17-18) and indeed, was the process used by the Duracks to secure land in the Kimberleys prior to their arrival there in 1886 (1998:28).

The differences between white and Indigenous relations to land are central to understanding the nature of intercultural relations in the VRD. These differences are fundamental and have proved to be largely irreconcilable. A useful approach in describing such difference is through the contrasting notions of 'transactional' and 'interactional' relations to land.³³ Transactional relations refer to those related to the system of Euro-Australian land tenure, that is, where land is purchased or made available by governments for certain uses which may, along with ownership of the land, change at any time. Transactional relations are envisaged by Western land law and processes of planning and development. Interactional relations, in contrast, refer to an orientation to land of a personal nature - the establishing of personalised links through direct experience and knowledge of country. Aboriginal relationships to land in the VRD are mostly of this type, underwritten by spiritual and other cultural connections to specific sites and tracts of land which are generally permanent and are not transferable to those who lack the specific spiritual or cultural criteria on which the relations are based. This aspect of Aboriginal-land relations is incompatible with the transactional model, although there have been attempts to approximate the former in a transactional form through land rights, heritage protection, and more recently, native title legislation. This has inevitably led to misconceptions on both sides. Many whites see the statutory protection of sacred sites as equivalent to handing legal control of the land to Aboriginal custodians; and that Aboriginal land should not be held under an inalienable form of freehold title (as it commonly is) because it freezes the land from availability for sale. On the other hand, Aboriginal people view statutory rights and titles as if these were recognition of Aboriginal customary title.³⁴

³³ I have adapted this terminology from Bain 1992, who uses the terms more narrowly in relation to interpersonal relations (see Chapter 6 for further discussion).

³⁴ Consequently, the legal requirement for Aboriginal land to be held by Land Trusts made up of groups identified according to legislative determination of traditional ownership and

The issue here is that each side relies on a mode of relating to land which is incompatible with the other. Whites, although they too develop and value interactional relations with land (Gill 1997), ultimately structure and subordinate such relations to the transactional spheres of land ownership, management and development. Aboriginal people in the VRD, on the other hand, may enter into transactional relations, but ultimately these are structured by, and subordinate to, traditionally-based interactional relations.

2.7. Who defines, rules!

The contrast between interactional and transactional relations to land draws our attention to the extent to which Euro-Australian land categories suppress consideration of parallel categories based on Indigenous systems of ownership and spiritual connection to the land. And even though the recognition of 'sacred sites', 'Aboriginal land' and 'native title' are significant examples of the recognition of Indigenous interests in land by Euro-Australian law, such recognition is significantly qualified. Firstly, legislative definition and codification of rights attaching to these categories has been determined according to Euro-Australian processes and conceptual understandings, resulting in conflict to varying degrees with Indigenous social forms and processes.³⁵ Secondly, at the local level in the VRD these same categories are generally resented by the local white population, contributing to increased cultural conflict and division. For their part, Aboriginal people in the VRD continue to recognise

responsibility, rather than Indigenous self-definition, has led to frustration and conflict within Indigenous communities in some instances.

³⁵ For discussion of such issues with respect to land claims under *the Aboriginal Land Rights (Northern Territory) Act 1976* see Keen 1984; Gumbert 1984; Merlan 1991b. Chapter 9 provides a detailed discussion with respect to sacred sites.

and operate customary systems of land tenure regardless of the Euro-Australian tenures imposed on the land. They are accustomed to but not accepting of, white ignorance of and disregard for Indigenous land law.

The above has outlined important aspects of the significance of contrasting cultural perspectives of the landscape in mediating the relationship between Aboriginal and non-Indigenous people in the VRD. Pastoral land use constitutes the only area in which there has developed a significant degree of conformity in Aboriginal and white attitudes, but even here considerable tensions exist as a result of developments which have enabled Aboriginal people to claim land, including pastoral leases, on which they seek to continue pastoral activities.³⁶ As we shall see, such tensions derive from a pattern of relations between whites and Aboriginal people which has its origins in the earliest phases of contact between the two groups.

2.8. Conclusion

In targeting the land itself as the prize of their endeavours, Europeans blinded themselves to any but the crudest understanding of the Indigenous systems of land ownership they were usurping. In many respects this is understandable given the fundamental differences between European 'transactional' relations to land and Aboriginal systems based on inalienable customary ties to a pre-existing Dreamtime settlement of the land. Without such understanding, European acknowledgement of a pre-existing settlement was never extended to Aboriginal groups, leaving a clear and natural path, via the ideologies and practices of the frontier, to impose European

³⁶ Under the *Land Rights Act* claims to pastoral leases were only possible where ownership of the lease is held by or on behalf of Aboriginal groups. However, a sunset clause in the Act prevents any claims being made after 1997.

settlement of the land.

Against a relentless tide of colonising ideology and practice, Aboriginal options quickly reduced to that of non-confrontationist resistance, a major aspect of which was the maintenance of a separate Aboriginal cultural domain. Confined to the stations under the unchallengeable domination of whites, maintenance of Aboriginal cultural attachment to land was facilitated by means such as access to country during station work, the wet season 'holiday' and a pragmatically motivated non-interference in 'tribal matters' by pastoralists. Nevertheless, the significant changes to Aboriginal patterns of access and use of country caused by pastoral work regimes also became internalised into the Aboriginal cultural domain, as was cattle grazing itself - underscoring the role of experience in producing cultural value.

However, the exclusion of VRD Aboriginal communities from significant involvement in other non-Indigenous land use and development activities has restricted opportunities and incentives for Aboriginal people to see in such activities any potential relevance to their own lives and aspirations. Instead these have become issues around which conflict and tension have developed. Such conflict is reinforced by Euro-Australian systems of land tenure, planning and administration. Even where Aboriginal rights to land have been recognised in the Euro-Australian legal system, such recognition has been qualified and subject to opposition and disapproval by whites at the local level.

To make further sense of this relationship, however, we need to look more closely at the patterns of the relations themselves - the structure of formal and informal social interactions which make up the differing experiences of community life. In doing so we must also briefly note the influence of another contrasting aspect of the VRD's physical setting - the marked wet and dry seasons of its monsoonal climate - before moving on to examine the characteristics of the interacting communities and the nature of the

kinds of interactions which occur.

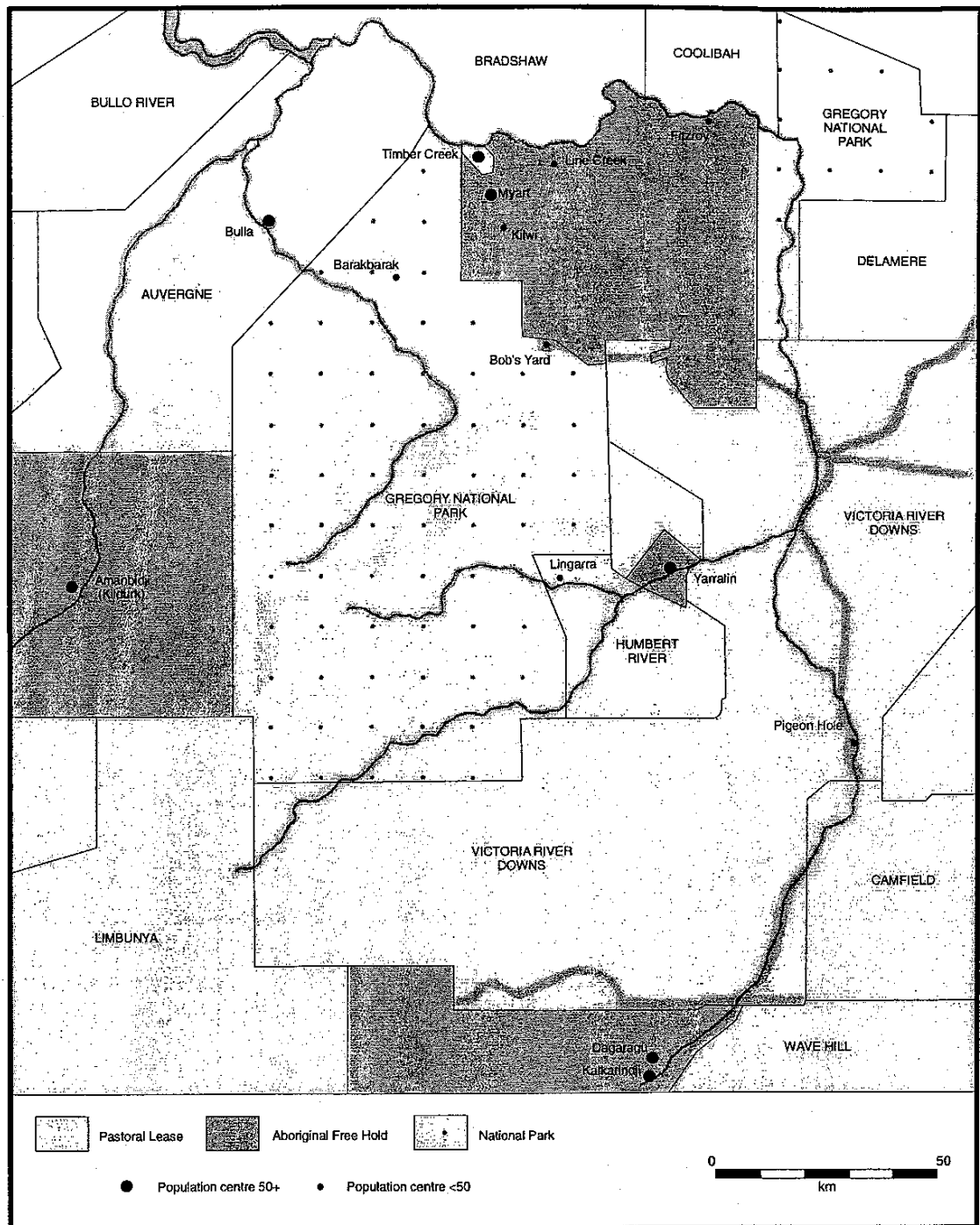


Figure 2: Map showing land tenure status and Aboriginal communities within the study area

CHAPTER 3: THE VRD COMMUNITY: A PORTRAIT IN BLACK AND WHITE

3.1. Introduction

The preceding chapter examined persistent differences in the conceptual underpinnings of land and identity for Aboriginal and non-Indigenous communities in the VRD and showed how such difference has helped to perpetuate deep division between the two communities. In only one significant context – that of pastoralism – did there develop any degree of convergence between the two cultures, but on reflection even this proved to be largely superficial. The reality of the system of rationing on cattle stations and missions was that it actually ‘helped to preserve cultural difference’ (Rowse 1998). Rowse revisited Elkin’s description of Aboriginal responses to rationing as ‘intelligent parasitism’, noting that Elkin

was disturbed by the way in which rationing allowed cultural difference between the donor and receiver to persist, delaying, limiting and even thwarting the acculturation of Indigenous Australians to the colonisers’ ways (Rowse 1998:207).

A significant structural aspect of the rationing system enabling the persistence of cultural difference was the strict residential segregation of the two communities. Significantly, residential segregation was itself a product of cultural difference, and although predicated on terms imposed by whites, Aboriginal groups embraced its opportunities for maintaining cultural integrity and autonomy. With the abandoning of rationing and its policy framework of assimilation, the patterns of residential

segregation have persisted, largely due to the aspirations of Aboriginal groups to live in separate, autonomous communities. In an important sense, the adoption of a new Commonwealth policy of self-determination was a response to Aboriginal political expressions of such aspirations.

However, these changes, considered further in later chapters, also signalled unreconciled difficulties in cultural relations which largely continue in the present. This chapter sketches the contemporary structure of community life in the VRD in view of its segregated nature and continuities with the past. The chapter also considers the nature and patterns of cultural division and interaction and the attitudes and opinions of the various Indigenous and non-Indigenous players in the affairs of the community.

3.2. A Portrait of the VRD community

A segregated community

Although the Northern Territory has a small population in comparison to the States, it has an unusually high percentage of Aboriginal residents - approximately 26.4% as at 1996. In remote areas this percentage is much higher. In 1996 the population of the VRD was 2325, of which 1831 or 79% were Aboriginal (ABS 1998).¹

In respect of residential patterns the VRD community is strongly racially segregated, with most whites and Aboriginal people living in separate communities. Exceptions to this general condition involve the few cases of mixed marriages (Aboriginal women married to white men); and Aboriginal communities such as Yarralin, which employ

¹ These figures are for the 'Victoria' SLA (statistical local area) from the 1996 Census (ABS 1998).

whites in the local resource centre, school and shop.²

The Aboriginal population of the study area as at 1997³ was 579 spread over nine communities⁴ (see Figure 2). Three of these communities are of significant size (around 100 or more residents) with limited town-type facilities (school, store, health centre, council office). The other six are small family-based communities of between 14 and 56 residents. Five communities, comprising two thirds (66.5%) of the total population, are located on Aboriginal Land. Four of the communities, comprising 40.8% of the total Aboriginal population are located within non-Indigenous owned pastoral leases. One community of 14 people (2.4%) is located within Gregory National Park.⁵

Racial segregation in the Northern Territory has been accompanied by marked disparities in health and most other social indicators of community well-being. According to a recent study, Aboriginal life expectancy is considerably less than that of non-Indigenous Australians – 57 years for Aboriginal men, compared with 75 years for non-Indigenous men; and 62 years for Aboriginal women, compared with 81 years for non-Indigenous women.⁶ Aboriginal infant mortality rates remain typically two or three times those for non-Indigenous infants. Aboriginal morbidity and mortality rates for

² However, even whites employed by Aboriginal communities tend to live physically separate.

³ The population data is adapted from Reeves 1998, Appendix H, which utilised data supplied by the Northern Territory Department of Lands, Planning and Environment. This data is deficient in a number of respects (Reeves 1998:H2) but is the only data currently available at an individual community level.

⁴ This is a little under half (47.6%) of the total VRD Aboriginal population of 1271 spread through 21 communities.

⁵ This analysis of community locations is based on the nature of title of land surrounding the communities, which must be regularly accessed or traversed for cultural or community purposes. The figures are slightly misleading in some respects. The percentages total more than 100% because one community, Pigeon Hole, has been counted as both on Aboriginal Land and within a non-Indigenous owned pastoral lease. This is because the Aboriginal Land on which it is located was originally a narrow stock-route (1km wide) running through Victoria River Downs Station and so the community situation is more like that of a small excision on a non-Indigenous owned pastoral lease.

⁶ ABC Radio News, 10 August 1999, reporting on the release of a report on Indigenous health by the Australian Institute of Health and Welfare.

diseases such as diabetes and renal disease remain significantly higher than those of the non-Indigenous community, while, in addition, Aboriginal people frequently suffer from diseases such as tuberculosis and trachoma, which are rarely found amongst the non-Indigenous population (Kuldeep and Anderson 1995). Unemployment amongst Aboriginal people in the Northern Territory is almost 18%, compared with 5.8% for non-Indigenous Territorians. 38.3% of those with jobs are labourers compared with 7.5% for other Territorians, while only 6.1% of Aboriginal people over 15 years have a post-secondary school qualification compared with 39.7% of other Territorians (ABS 1998).

Such statistics tend to be interpreted by the non-Indigenous community as indicating a crisis in Aboriginal society which is regarded as largely self-inflicted.

Timber Creek

Timber Creek is the major regional town the VRD, and has an elected local government body, the Timber Creek Community Government Council, which carries out local government functions for the town itself and a number of outlying Aboriginal communities. The Council has eight members, four of whom are Aboriginal, elected from three Wards.⁷ The Council has proved to be a positive force in improving cross-cultural relations in the town and the level to which the Aboriginal community is consulted about proposed developments, but remains an essentially white administrative structure. The Council recently commissioned a book on the cross-cultural history of the local area (Lewis 1997).

⁷ The Timber Creek Ward covers the township itself where only whites live – it has four white Councilors. The other two Wards comprise out-of-town Aboriginal communities. The Ngarinman Ward has three Aboriginal Councilors; and the Gilwi Ward has one Aboriginal Councilor. Lewis (1997:13) notes it is 'the only [mixed race] town council in Australia with equal representation of Aborigines and Europeans', but considering approximately 80% of its population are Aboriginal, this is not quite the boast it could be.

The local non-Indigenous population is an eclectic mix of people. Timber Creek is a small, remote service centre with limited employment opportunities. Government services include a police station, health clinic, primary school and a local community government council centre. There is also a small Department of Transport and Works depot and the Territory Parks and Wildlife Commission headquarters for Gregory National Park. As in many other parts of the Northern Territory, most non-Indigenous people who work in these areas stay only for a few years and so never make a long term commitment to the community. However, many are permanent residents of the Northern Territory, having come from and eventually moving away to, other parts of the Territory. Thus they bring to Timber Creek attitudes relating to Aboriginal issues which are informed by their experience of race relations in other parts of the Territory. Only a small core are long-term residents, and of these, a number are or were closely involved in the local pastoral industry. The only other local employment can be found at the local hotel/motels and shops of the tiny commercial centre. These businesses often employ foreign back-packers during the busy Dry season months.

Aboriginal people do not live in the town itself, but at Aboriginal communities located within its hinterland. The nearest Aboriginal community, initially established as a fringe camp, is within walking distance from the commercial centre, about 1.5km along the highway. About ten other communities of varying sizes are located within 100 kilometres or so of the town, and members of these communities also access Timber Creek for various service needs and social purposes. The closer communities are serviced by the Ngaliwurru-Wuli Association,⁸ an Aboriginal organisation based in

⁸ The Association was established in 1986 and currently services fifteen local Aboriginal communities. Its services include house maintenance, plumbing, mechanics shop, carpentry, an Aboriginal environmental health worker as well as administration of the Community Development Employment Program (CDEP). In 1997 there were 200 people on the Association's payroll (Lewis 1997).

Timber Creek which services local Indigenous employment and community servicing needs, and also by a small regional office of the Northern Land Council (NLC).⁹ Closer communities send their children to the local Timber Creek primary school but there are also small schools in the two largest Aboriginal communities in the study area - Bulla and Yarralin.¹⁰ Vehicles from outlying communities come and go, bringing people in to shop, collect mail and attend to other business, to socialise with others, or to drink at one of the town's two pubs. Some bring in paintings or artefacts for sale, either through the shops and pubs or else through direct transactions with interested tourists, providing an important supplementary source of income.

Unemployment is very high amongst the local Aboriginal community and amongst the general Aboriginal population of the Northern Territory. As a consequence, most local communities have signed up to the Community Development Employment Program (CDEP),¹¹ under which those entitled to unemployment benefits work on projects funded in their local community. The scheme is administered through the Ngaliwurru-Wuli Association, which also provides services and support for about 15 local and outlying Aboriginal communities.

Aboriginal residential patterns reflect traditional and historical associations to land

The current residential patterns of Aboriginal people in the VRD reflect those of the

⁹ With the introduction of land rights legislation in the Northern Territory in 1976, Land Councils were established to meet the needs of administering land claims and servicing the needs of traditional land owners. There are currently four Land Councils covering the Northern Territory.

¹⁰ Some of the smaller, more remote 'outstation' communities participate in 'school of the air' programs by radio.

¹¹ As at 1996, 4,047 Indigenous persons in the Northern Territory (or 42.4% of those in any type of employment) were employed in CDEP programs (ABS 1998:30). CDEP has been popular with Aboriginal communities, providing a level of 'self-determination' in relation to the choice and organisation of work undertaken and an alternative to 'absorption into the mainstream economy' and culture, but the scheme has also been criticised from other quarters as creating a low wage secondary labour market (Rowse 1998:215-17).

past in two significant respects: that of a person's traditional association to land and that of past residence on stations and other European communities. In general, Aboriginal people, as members of family or kin groups, reside at communities on or near land to which they are traditionally affiliated. This was also the case with Aboriginal station communities which were essentially labour camps located near station homesteads. When Aboriginal people left or were removed from these communities in the 1970s, newly established independent communities were often located close to the previous station community. Bulla Camp, for example, was sited a few kilometres upstream from Auvergne Homestead; Yarralin was sited at the location of VRD Station's Gordon Creek outstation; and Lingarra was sited a couple of kilometres from the old Humbert River Homestead.

The 'Wet' and the 'Dry': seasonality and the cycles of VRD community life

As with the physical landscape of the VRD, the existence of a strongly contrasting seasonal variation in rainfall has a marked effect both on the lives of the VRD community as well as on the way in which the landscape is conceptualised. Here, the Euro-Australian binary of wet season/dry season has been widely adopted in referring to the marked seasonal division which is characteristic of the tropical monsoonal climate extending across northern Australia. This is a more simplified conceptualisation of seasonality than that recognised in local Aboriginal knowledge systems, and one which, by nature of its dominant currency, suppresses the Indigenous alternative.

A significant aspect of this seasonal division is that of access - the wet season making much of the country inaccessible - at times cutting even the all-weather bitumen Victoria Highway (part of the National Highway 1) which connects the Northern Territory with the Kimberley region of Western Australia. The frequent storms

associated with monsoonal depressions, local flooding which can cut road access, and the generally hot and humid conditions, combine to reduce tourist and other through-traffic to, at times, a trickle. Everywhere the vegetation flourishes, transforming the annual tall grass woodlands into an electric green landscape with plentiful water. The boggy nature of much of the countryside, particularly the heavy clay 'black soil' plains, means that people are restricted in their access to country and to other communities. Mining exploration, community infrastructure works, road works and pastoral activities also reduce significantly during the wet season, adding to the appearance of sleepy isolation which the area takes on.

With the onset of the Dry season, the heavy clay soils begin to dry out and boggy country becomes accessible once more. Work requiring access to such areas recommences and connections with the outside world steadily increase. Tourism has become an important part of the local economy and over the Dry season a steady stream of caravans, often in wagon-train like convoys, cruise across the Victoria Highway along with numerous 4-wheel drive vehicles, road trains and buses. Many of these stop at Timber Creek - mostly only briefly, for fuel or a meal or to drop off or pick up passengers, but some stay overnight or a few days, choosing between the three basic hotel-motel-caravan park facilities at the town's commercial precinct or the Territory Parks and Wildlife Commission camping ground at the junction of Big Horse Creek and the Victoria River ten kilometres west of the town.

Tourists or travellers who do stay often do so for the renowned barramundi fishing provided by the Victoria River - evidence for which they will find pinned to the wall of Fogarty's take-away in the form of countless photos of beaming anglers with their huge catches. Or they may wish to explore Gregory National Park which extends to the south and east of Timber Creek (see Figure 2). Gregory has relatively few off-road tourist facilities, and most of these are located about 60km south of Timber Creek in

the vicinity of Bullita Outstation - an old historic 'outstation' homestead of one of the former pastoral leases purchased to establish the park in 1986. Many Timber Creek visitors also end up taking Max's Tour,¹² which takes them to local historic sites, and includes a boat trip down the Victoria River to a small island for billy tea, didgeridu playing and the odd tall story.¹³

The Dry season also brings a steady influx of government employees and officials, mining exploration crews, corporate employees, works contractors as well as pastoral workers from outlying stations. This eclectic mix of outsiders engages the town in different ways. Some are regular visitors through their employment, getting to know the locals with whom they deal, whilst others may only visit the town infrequently or only once or twice. They may stay at the local motels or else in temporary works camps set up close to where their work is located. The latter usually come into town in the evenings or in order to pick up supplies or get vehicle repairs done. Their contribution to the local economy is also significant.

3.3. Racial interaction in the VRD

Interaction with local whites

Most interaction between Aboriginal people and local whites occurs within the town area itself, particularly in the tiny commercial precinct and at the various service and administrative facilities in the town. In most of these situations, Aboriginal people must deal with whites as their customers or clients - that is, in such situations it is the whites

¹² Max and his wife have recently retired and another couple have taken it over.

¹³ See Rose 1997 for a detailed description of Max's tour. Section 5.4 below also includes a discussion of Max's tour in relation to the Aboriginal heritage issues it raises, while Case Study 2 in Chapter 10 examines a consultation meeting between Max and Aboriginal custodians regarding Aboriginal cultural sites he visits as part of the tour.

who hold positions of authority, usually having the power to determine whether and under what conditions Aboriginal people can access services being sought. On the other hand, the local Aboriginal community represents a significant proportion of the customer and revenue bases for the various services and businesses of the town.

Police, by nature of their work, have extensive contact with local Aboriginal people. The tenor of these relations can vary significantly - police are generally posted for limited amounts of time and vary in their sensitivity and treatment towards members of the Aboriginal community. A recent study undertaken as part of the Royal Commission into Aboriginal Deaths in Custody found that a 'frontier' relationship continued to characterise Aboriginal/police relations in the Northern Territory (Markus 1994:210). As an example, an elder from Bulla Community near Timber Creek complained to me one day about threats made to some young Aboriginal men by the local police officer who had told them that 'he didn't like Bulla boys' and that he 'didn't want to see Bulla boys around Timber Creek'.¹⁴ The employment of Aboriginal police aides in recent years to assist in community relations and policing has had some positive effect, but relations with the police are still largely determined by the attitudes of local officers. At Timber Creek an Aboriginal police aide and his family live at the nearby Murrangin community just outside of the town boundary.

Another significant context of interaction is with local pastoralists. Pastoralists vary considerably in their level of contact and relations with the Aboriginal community. Some are regarded by local Aboriginal people as virtually unapproachable whilst others have sought to develop a cooperative relationship with those who have traditional ties to station areas. The attitudes of pastoralists are significant both in terms of the large areas of traditional lands to which they effectively control Aboriginal

¹⁴ Pers. comm. 1997.

access and use, and also because of their influence on the attitudes and opinions of the broader local white community. Later in the chapter I consider further the implications of pastoralists' attitudes (see also Chapters 6, 7 and 8 for more detailed consideration of Aboriginal/pastoralist relations).

The 'Aboriginal industry'

Many of the working visitors to the VRD come to service particular needs of the various Aboriginal communities. This includes employees from the Aboriginal and Torres Strait Islander Commission (ATSIC), the NLC and the Aboriginal Areas Protection Authority, as well as from Northern Territory government departments, and various health and legal services. The kinds of issues covered by what is sometimes pejoratively termed the 'Aboriginal industry' include the protection of sacred sites; assistance with claims under the *Land Rights Act* or the *Native Title Act*; assistance with the management of successfully claimed land (most of which consists of pastoral leases); community health and legal issues; community infrastructure needs, etc. These outsiders are sometimes looked upon with scepticism or suspicion by members of the local non-Indigenous community. I was one of these, having worked for the Aboriginal Areas Protection Authority over a period of about ten years, making almost weekly pilgrimages to the VRD to carry out consultations and field research with Aboriginal custodians on matters related to sacred site protection.

'Aboriginal liaison'

Others engage with Aboriginal people in the course of carrying out their work. For instance, mining exploration staff, army personnel, Parks and Wildlife Commission employees, Telecom employees, roads contractors etc, sometimes approach

Aboriginal custodians seeking cultural information about areas or in order to advise them of works or activities occurring in the vicinity. Such approaches are often sporadic, mostly well intentioned but also often problematic. Difficulties mostly arise because such people usually have little knowledge of the Aboriginal community with which they are dealing, poor cross-cultural communication skills, and insufficient time and expertise to conduct adequate consultations. The results of these encounters, the best of which are conducted under Aboriginal 'liaison' policies, can be far from satisfactory for both sides (see Chapter 11).

More often, the opposite case applies - that there is no contact or consultation with the local Aboriginal community in relation to non-Indigenous access and use of land. This can have disastrous consequences, such as the damaging of sacred sites, as well as more diffuse effects through reinforcing Aboriginal experience of the often disrespectful and blundering attitudes of whites towards Aboriginal cultural concerns.

Casual encounters

The tourists and other visitors encounter local Aboriginal people in the bars and shops of the tiny commercial centre, or on the adjacent landscaped strip of grass and shady trees where different family and social groups spend time during the day. The tenor of these encounters varies. On pension and CDEP pay days¹⁵ the town is bustling with people who have come to collect their cheques, shop for food and necessities or to drink at the pubs. Numerous groups sit outside under the trees, talking, playing cards or waiting for lifts back to their communities. Binge drinking is a problem within both the Aboriginal and non-Indigenous communities and the pubs are at times crowded and rowdy. Alcohol related arguments and violence are not uncommon, often spilling back

¹⁵ Pension days are fortnightly while the CDEP pay day is each Friday.

into the communities, causing serious disruption to community life.¹⁶ On days other than pension or pay days the commercial centre is much quieter, sometimes all but deserted, with people coming in mainly in the mornings or late afternoons.

Visitors' experience as a reflection of the status quo

Visitors enter into a contested socio-cultural landscape about which they have limited experience and understanding. In this situation, their experience of Aboriginal people is more likely to mirror the status quo. Their experiences, derived principally from white-controlled domains, reinforce an overall impression of Aboriginal people in the VRD as a marginalised section of the community. Within town contexts there is little in what tourists directly observe or experience of local Aboriginal people which accords with 'traditional' stereotypes of 'past' Aboriginal culture. Moreover, the other main sources of information about Aboriginal people which tourists are exposed to reinforces the idea of a rupture between the 'traditional' past and a transformed corrupted present. Local whites control these sources of information - the interpretive material provided by Gregory National Park, the displays at the local museum (housed in the former Police Station), and the kinds of information provided in Max's tour.

But it is also true that local whites with less direct experience of the Aboriginal community similarly rely on the knowledge and perceptions of those with a greater experience, such as some pastoralists, in the formation of their own views.

¹⁶ Aboriginal communities have struggled to control the problem. Some have done so by declaring their communities 'dry areas' while a broader initiative has involved seeking agreements with the local pubs to place a night-time curfew on serving Aboriginal people at the bars and limiting the amount of take-away alcohol allowed at any one time. However, difficulties with such agreements have resulted recently in the local Ngaliwurru-Wuli Association buying one of the local hotels outright and buying a share in the only other liquor outlet in order to exert some control on drinking patterns (ABC Local News, 23 Aug 1999).

3.4. Insider/outsider issues

Shifting boundaries of 'insider' / 'outsider'

These complex patterns of social interaction in the VRD evoke and, to a significant degree, are the product of, different groups' views of each other as 'outsiders' or 'insiders'. For the division between black and white - between Aboriginal and Euro-Australian culture - the insider/outsider dichotomy might seem fairly straightforward, but even here there are important caveats. For instance, both Aboriginal and white locals regard visitors to the area as outsiders. But these visitors comprise a number of distinct groups. To local whites, tourists are outsiders, but not in all respects. In the context of Max's tour, for instance, or that of backpackers staying to work for a while at one of the pubs, they are extended a limited insider status¹⁷ - particularly in contrast to the perceived self-confirming outsider status with which the Aboriginal community is mostly regarded. Visiting workers of the 'Aboriginal industry', however, are rarely received as insiders by white locals, who regard their role with suspicion. As one of those viewed in this way, I became accustomed to the thinly-veiled disdain and suspicion evident in the reactions of some local whites towards me.

VRD Aborigines experience a similarly complex field of insider/outsider distinctions. In addition to the differing groups of non-Indigenous outsiders, there are also Aboriginal outsiders with whom they must deal, although here mutually-respected cultural protocols based on kin structures foster the establishment of insider connections.¹⁸ Whites, however, are a different situation. In one sense all whites are outsiders - as

¹⁷ Rose 1997 provides an excellent discussion of such a process in relation to Max's tour.

¹⁸ Aboriginal kinship systems are classificatory, allowing Aboriginal strangers to be incorporated into the local community structure according to their 'skin' category. Whites can also be incorporated into local kinship systems by being assigned a 'skin' term (see for example, Rose 1992:74).

indicated by the widely used Aboriginal term for 'whitefella' - *kartiya*. The term can be neutral but more often carries with it a sense of apprehension or disparagement. It is mostly used in relation to unknown or unfamiliar whites or in reference to the amorphous, anonymous 'other' of whitefellas in general.

Whites from the 'Aboriginal industry' or those thought to be sympathetic may be accorded conditional insider status by VRD Aborigines. Whether and to what degree such status is bestowed is of course dependent on the extent and closeness of relations which have been established and the context of the interaction. One-off or intermittent encounters are likely to result in Aboriginal people treating them as they would any white in a position of authority. More extensive contact may see such whites included in community activities or discussions which would not normally be carried out in the presence of whites. In certain respects this is similar to how local whites view tourists - they can never be a true insider, but in some respects a level of insider status is extended. Often, acknowledgment of an insider status is communicated to others by saying that the person 'understands' Aboriginal culture or 'helps Aboriginal people'. Accompanying this may be an expectation that, on the basis of their experience, such whites can be a 'witness' and help negotiate government matters or deal on their behalf with unfamiliar whites.

A pastoralist's view of intercultural relations

An analysis of current attitudes in demarking insider/outsider categories reveals significant continuities with past patterns of relations and of differences in conceptual

Black (traditional)	Black (modern)	White (do-gooder)	White (pastoralist)
traditional	debased	civilised	civilised
old	young	-	-

past	present	present	past and present
dying out	continuing	continuing	continuing
unproductive	unproductive	unproductive	productive
knowledgeable	ignorant	ignorant	knowledgeable
trustworthy	untrustworthy	untrustworthy	trustworthy
bush	city	city	bush
simple/vulnerable	manipulative/greedy	manipulative/naive	honest

Table 1: Typical pastoralist assessment of black/white relations.

understandings and world views discussed in the previous chapter. One of the most significant examples is found in the attitudes of pastoralists towards others who have interests or involvement in issues related to Aboriginal cultural attachment to pastoral stations.

Table 1 attempts to summarise typical views pastoralists hold of four main groups they identify as having significant involvement in cross-cultural relations on pastoral leases – ‘traditional blacks’, ‘modern blacks’, ‘white do-gooders’ and ‘white pastoralists’. These groups have been arrived at on the basis of a variety of source material: personal experience, some structured interviews with pastoralists in the VRD, and published sources of pastoralists attitudes.¹⁹

There are a number of important reasons for singling out the views of pastoralists for examination here:

¹⁹ This includes interviews by the author with past and present managers of Auvergne, Lloyd Fogarty (1995) and Alan Andrews (1996); interviews held in the Northern Territory archives with Mr and Mrs Noel Hall (TS 230), Ivor Hall (TS 60/1), Enid Durack (TS 629), Reg Durack (TS 452); McGrath 1983; Schultz 1995; and the submission and evidence of the Northern Territory Cattlemen’s Association (NTCA) to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (NTCA 1998a; 1998b).

- the history of intercultural relations in the VRD is most closely associated with the pastoral industry and the role of Aboriginal people as workers and residents on the stations;
- the VRD remains, foremost, a pastoral region, with almost two thirds of the area comprising non-Indigenous owned pastoral leases;
- the knowledge and experience of the Aboriginal community gained by pastoralists, both in the past when Aboriginal communities lived and worked on the stations, and as a result of more recent, sporadic contact, has had and continues to enjoy wide currency amongst, and to be readily assimilated by, the wider non-Indigenous community.

In essence, the views of pastoralists tend to characterise the 'world view' of whites generally in remote regions such as the VRD. Table 1 provides a number of important insights into this world view. Firstly, of the groups, two are identified as problem groups – 'modern blacks' and 'white do-gooders' - an assessment which coincides with the fact that these two groups have the most tenuous and conflictual relationships with pastoralists in the present. These groups are contrasted with 'traditional blacks' which, in this scheme equate with Aboriginal people who have a strong past association with the stations (the so-called 'station blacks' referred to the previous chapter) and who are, by and large, well known to pastoralists. This past close association is the basis on which white pastoralists, particularly older ones, claim an insider affinity with and knowledge of this group - a knowledge which they regard as superior to that of 'modern blacks' and 'white do-gooders'. By claiming authority in relation to an 'authentic' past, pastoralists challenge the authority in the present of 'modern blacks' and 'white do-gooders'.²⁰

²⁰ See, for example, NTCA 1998b, p1011. Merlan (1991a:343) also gives a similar example in a non-pastoral context.

However, there are reasons for questioning the basis of pastoralists' sense of authority. For instance, older Aboriginal people with direct experience of past intercultural relations on pastoral leases, tend to be considerably more respectful and acquiescent in their direct dealings with whites – and it is this characteristic that has served to reinforce pastoralists' sense of authority.²¹ Even the fact that most pastoralists have little or no significant contact with 'traditional blacks' in the present, is an inconsistency which is carefully papered over.

'Modern blacks' represent an amalgam of those younger, locally-based people who are the offspring of 'station blacks', together with Aboriginal 'outsiders' who generally work for Aboriginal organisations. The perceived differences between this group and 'traditional blacks' essentially sketches out pastoralists' assessment of the future for Aboriginal culture: the cultural state of 'modern blacks' is corrupted in comparison to 'traditional blacks', who are seen (along with authentic 'traditionality') as in the process of dying out. Similarly, 'modern blacks' are seen as untrustworthy, manipulative and greedy, and as using their position to exploit the simple vulnerability of their traditional elders. Significantly, such views are to some extent identical with past views whereby the extent of Aboriginal involvement with 'negative' aspects of white culture, such as alcohol, was seen as debasing their 'traditional' orientation. Ironically, it is some of those seen as so debased in the past who pastoralists, in the schema from Table 1, now regard as 'traditional' and as similarly dying out.²²

²¹ This issue is addressed further in Chapters 6 and 7.

²² This illustrates an entrenched prejudice in non-Indigenous attitudes towards Aboriginal culture. Past policies of segregation followed by that of assimilation assumed the eventual erasure of a disintegrating 'traditional' culture, in the first case through racial extinction, and in the second through absorption into the dominant white culture. Loss of traditional culture was also a theme of concerns raised about the granting of alcohol rights in the mid-1960s and its contribution to the break-down of Aboriginal involvement on pastoral stations (see Chapter 8). However, many of the present day 'traditional blacks', now mostly in their 50s and 60s and senior Aboriginal law leaders, were young men when alcohol became legally available and thus were the objects of pastoralists' concerns at the time. In other words, the prejudice has remained, adapted to changing circumstances.

In summary, we can see that white conceptualisation in the past of both the landscape and Aboriginal people in terms of Euro-Australian values of productivity and worth is reflected in this modern dichotomy between 'traditional' and 'modern' blacks and between pastoralists and 'white do-gooders'. In searching for an explanation for this continuity of attitudes, one is drawn to the conditions of the relationships which have developed between pastoralists and Aboriginal people.

3.5. Conclusion

This chapter has shown how the current community in the VRD is characterised by division along 'racial' lines. The depth of this division is apparent in the racially segregated nature of VRD society - a situation which is, in many senses, unchanged from the earliest phases of non-violent interaction between the two groups.

The contemporary situation in the VRD is characterised by many commonalities with past practices and attitudes of whites towards Aboriginal people and vice versa. White perspectives continue to construct the Indigenous community in the VRD as 'other'. But perhaps more insidiously, such perspectives also portray the contemporary Indigenous community as 'other' in relation to its past 'traditional' forms. Aboriginal people in the VRD provide a free-floating subject onto which Euro-Australian desires, insecurities and cultural prejudices can be projected.

Aboriginal patterns of behaviour, in superficially appearing to conform to these projected images, are not analysed for alternative meaning. Such lack of reflection is helped by the fact that interactional contexts at the local level are mostly of a practical or service nature, with limited interest or attention given to learning about Indigenous cultural issues. This is reinforced by the determination of the Aboriginal community to

maintain a separate, insulated cultural domain.

Local whites also insulate themselves from acquiring a deeper understanding of Indigenous cultural concerns by marginalising those whites whose experience and expertise might otherwise be directed towards facilitating such understanding. By distancing themselves from such individuals and the organisations they work for, and through employing pejorative terms such as the 'Aboriginal industry' in referring to them, local whites reinforce their belief in themselves as authoritative.

This chapter has outlined how culturally-based conceptual understandings together with entrenched interactional practices have provided a discursive structure which is stubbornly resistant to change. The continuity of relations which can be observed in the VRD has resulted from the fact that while whites are able to use such a structure to maintain their position of dominance in the social order of the VRD, Aboriginal people, in attempting to maintain a separate domain of authority beyond the reach of Euro-Australian control, are hampered in their ability to mount an effective challenge to Euro-Australian dominance.

An important conclusion from this discussion is that the power of conceptual understandings lies in their resonance with individual attitudes and beliefs and in the manner by which they are employed in communicating to others a taken-for-granted social order. Here the role of interpersonal communication is important for communicating nuances of inside/outside, of degrees of inclusiveness or exclusiveness. In order to further understand the nature of cultural division in the VRD we must examine the processes of interpersonal communication in some detail.

Before doing so, however, we will need to acquire an understanding of the nature of Indigenous cultural attachment to land and the reasons why whites have failed to

adequately understand or come to terms with the fundamental significance of land for the Aboriginal communities of the VRD.

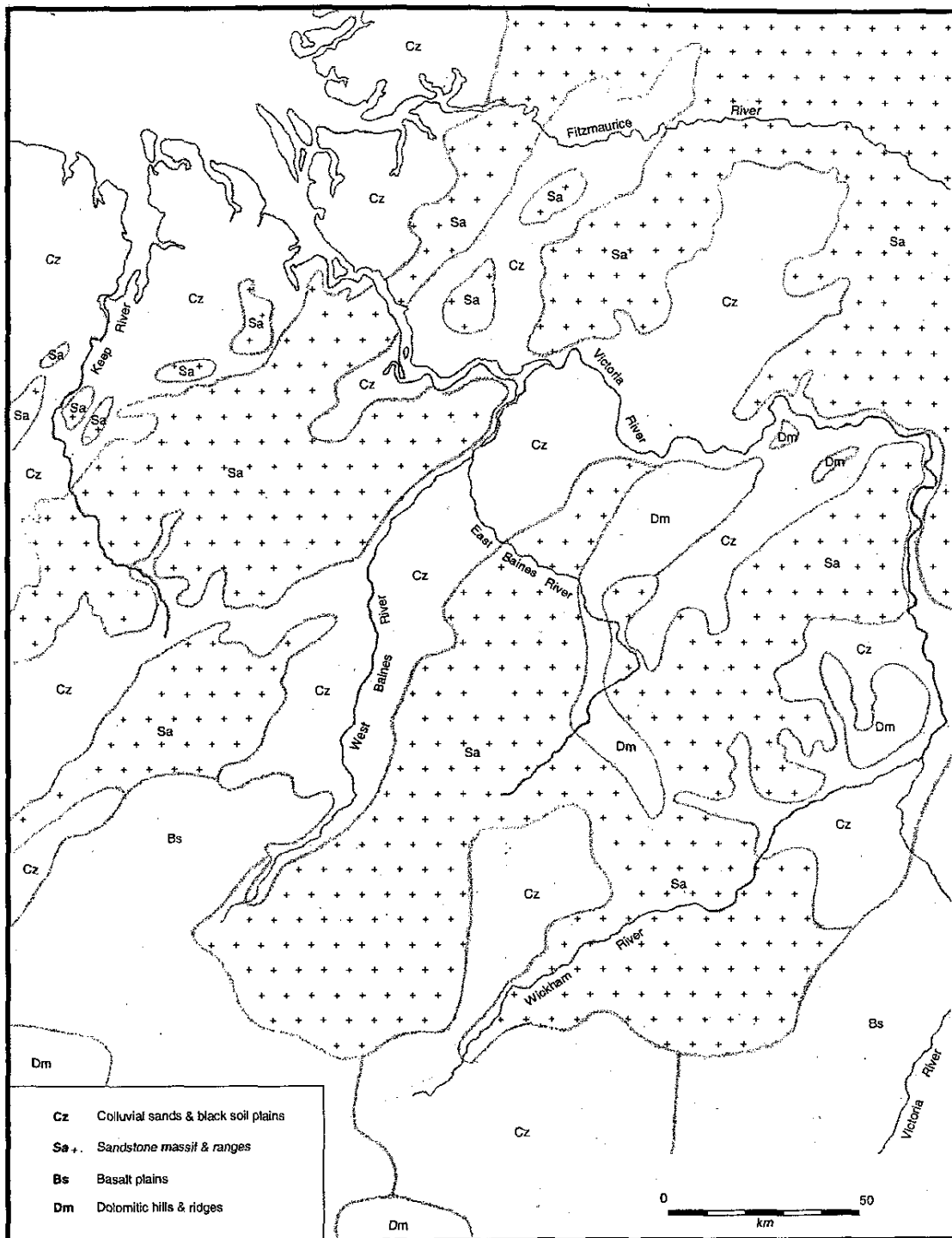


Figure 3: Principal land forms of the study area.

PART 2:

ON PLACE AND SIGNIFICANCE

CHAPTER 4: TREES OF KNOWLEDGE: MAINTAINING ABORIGINAL CULTURAL LINKS TO LAND

4.1. Introduction

The division between white and black in the VRD is often explained by the incommensurability of the two cultural systems - a cultural gulf maintained, to a significant extent, by the continuing, profound ignorance of whites concerning Indigenous cultures and attachment to land. At the same time, non-Indigenous representation of Aboriginal culture establishes an artificial distinction between a 'traditional' Aboriginal past and a culturally-impooverished Aboriginal present. This chapter seeks to question this quarantining of the Aboriginal present from its past by considering in some detail the nature of contemporary Indigenous attachment to land in the VRD.

The chapter illustrates the strong links which continue to exist between the Indigenous past and present and the ways in which these links are maintained in contemporary Indigenous society. It also examines the impacts and implications of non-Indigenous ownership and use of the land on the ability of Aboriginal custodians to maintain such links, particularly through the prevention of cultural practices which create attachment to land.

In this chapter I pay particular attention to what in the VRD are common elements of the Dreaming landscape; that is, individual trees and other forms of vegetation which are regarded as spiritually imbued. These features provide many clues to the nature and dynamics of past and contemporary Aboriginal knowledge of cultural landscapes.

4.2. 'Sacred sites' and Dreaming tracks

According to Aboriginal belief, the present form of the landscape and of the animals, plants and people on it, originated through the creationist activities of ancestral beings or 'Dreamings' during a past-oriented period which has come to be known in English as the 'Dreamtime' or the 'Dreaming' (Stanner 1979). In this epoch Dreamings had animate, mostly human forms, and sometimes possessed supernatural capabilities, such as the ability to change form and to perform acts of creation and transformation. Dreamings established the Law - the body of religious knowledge and rules or laws of behaviour by which Aboriginal societies now operate - but their actions in doing so are not idealised and in them are found all facets of the human condition, 'virtue, vice, pleasure and suffering' (Sutton 1988:15). Their actions occurred across the landscape as Dreamings moved and interacted with each other, and are imprinted on the land, along with transformations of the Dreamings themselves, as a myriad of physical features in the present landscape - animals, trees, plants, hills, creeks, waterholes, rock formations, rock art etc.

However, the creation of the present landscape in this way was not uniform in terms of either space or time. Spatially, while certain areas and features of the present landscape are believed to have been directly created by Dreamings, other parts of the landscape have more mundane or obscure origins. For instance, on a part of Fitzroy Station a small belt of spiny Acacias is regarded as culturally significant because it was said to have been mistaken for a similar, ritually important species by a group of ancestral beings travelling through the landscape. Their error is recorded in the song cycle¹ of these ancestral beings, and when I visited the site with its Aboriginal

¹ A 'song cycle' is an extended set of verses believed to have originated from an ancestral Dreaming being and which describes the actions of that being as it travelled through the

custodians they sang me the section of song verse which refers to the incident. However, occurrences of this plant in other areas do not have a similar cultural significance. Spatio-temporal anomalies also exist in the agency of Dreamings in the landscape. For instance, the presence and creationist powers of ancestral beings are not confined to the Dreamtime past, but also exist in the present - though transformed in physical form and means of agency - at the many sacred places where ancestral beings continue to reside in the landscape. Dreamings have the power to harm people who damage or misuse sacred sites, or those who fail to prevent or seek proper redress for such damage or misuse. They can cause sickness, accidents or violent turns of weather. Sometimes ancestral beings manifest themselves in the form of animals or other natural phenomena. They may even communicate with individuals through dreams. This active contingency of the Dreaming landscape and its ancestral creators in the present is embodied in the term, *puwarratj*, which can be used variously to refer to the ancestral Dreaming beings themselves; their creative acts; the actual features and objects they created; as well as sacred designs (including body paintings) reproduced in the present.

Areas where Dreamtime ancestral beings performed specific activities and left objects or features have come to be commonly referred to as sacred sites². However, sacred sites do not exist in isolation but are linked to other sites by intervening paths. These sites, together with the paths which ancestral beings followed over the land, I refer to as 'Dreaming tracks'. Collectively, Dreaming tracks constitute a complex network which traces and manifests the Dreamtime travels and activities of ancestral beings over and through the landscape (see Figure 4). In some cases Dreaming tracks extend for

landscape in the Dreamtime epoch. Song cycles are sung in ritual performances, and are regarded as religious sacra (see Clunies-Ross et al 1987).

² The ambit of the term is the subject of considerable debate. However, in this thesis I take the term to refer simply to an area encompassing related physical features created or left by ancestral Dreaming beings (see also Chapter 9 for discussion of the term 'sacred site').

thousands of kilometres, but most are considerably shorter, some only a few kilometres in length or extent. Some Dreamings occur only at discrete locations³.

The extent of the areas over which Dreamings range often correspond to the type of ancestral being. For instance, there are a number of stationary spider Dreamings in the VRD which are explained by the fact that spiders don't travel - their webs occupy a fixed location. The Flying Fox, *Warrpa*, on the other hand, flies in large groups, spreading out to exploit food sources over a large area.⁴ Consequently its Dreaming track is regarded as being similarly broad and extensive. Sometimes whole tracts of country or extensive elements of the landscape which Dreamings encountered are regarded as of special significance. Along a section of the Victoria River, for instance, a thin corridor of black soil grassland and a distinctive vegetation community fringing a swampy watercourse are important because of the activities of ancestral goannas who hunted and dug the ground as they travelled.

Dreaming tracks and cultural boundaries

Dreaming tracks are of fundamental importance in defining the countries and identity of Aboriginal groups and their relationships with other groups. The larger tracks, extending across the countries of many language groups, help to define separate cultural boundaries and identities while at the same time providing important spiritual links, celebrated in songs, ritual and narratives, between groups whose countries are

³ Such Dreamings are not qualitatively different from those which travel across the landscape and are implicitly included in the following discussion wherever general reference to Dreaming tracks is made.

⁴ Some characteristics of the present incarnations of Dreamings as animals or plants have a Dreamtime origin. Rose, for example, notes that the behaviour of Flying Foxes in sometimes circling back to the location from which a group has just left is explained by the fact that a couple of Dreaming Flying Foxes forgot their axes and had to go back to get them (Rose 1992:54).

traversed by the Dreaming track. For example, the Black-headed Python, *Walujapi* (as this Dreaming is known in the VRD), has one of the longest Dreaming tracks in northern Australia, extending from the Kimberleys in Western Australia to the Gulf of Carpentaria in Queensland. *Walujapi* is said to have changed languages at specified places during her travels, marking the present boundaries between the countries of the different language groups (Arndt 1965). The ceremony which *Walujapi* performed periodically during her journey is today still performed by the many groups whose traditional lands *Walujapi* passed through. Dreaming tracks may also extend over areas of significant local resources within a group's country. For example, the actions of the *Wulkuru* ('Custodians of the Dead') map out an extensive tract of country which is significant for Ngaliwurru people. The *Wulkuru* first brought and collected an economically-important species of yam, *kakawuli* (*Vigna radiata*), which is found predominantly in this area and throughout Ngaliwurru country in general. In some cases, the totem of the Dreaming itself may constitute the significant resource associated with its Dreaming track. On Auvergne Station, for instance, the Dreaming track of the goanna, *Malajaku*, extends over an area of floodplain and salt-marsh country fringing the Victoria River, which is rich in goannas. Individual sites may similarly encompass more localised occurrences of important resources left there by an ancestral being.⁵

Multiplicity and repetition of Dreaming features

Features left by ancestral beings in the landscape, including those features regarded

⁵ In this regard it is entirely consistent that Aboriginal custodians when made aware of special substances that whites locate in the earth (eg minerals), might construe these, when coinciding with a sacred site or Dreaming track, as having been put there by the associated Dreaming (see for example Keen and Merlan 1990). See also Marika (1975:77) for an Aboriginal explanation of the presence of Dreamings under the ground.

as transformations of Dreamings themselves, may recur with considerable frequency along the path or area of their activities. So, for example, not only may a feature such as a tree be taken to be a transformation of an ancestral being – that is, it is believed *to be* that ancestral being (Munn 1970) - but there may be many transformations of the same ancestral being at various intervals, all regarded individually as complete incarnations and accorded an equivalent level of significance. Similarly, the objects and resources used by an ancestral being - spears, woomeras, yam sticks, coolamons, ritual paraphernalia, foods, medicines and other useful materials - recur as specific features with sometimes seemingly endless repetition along such tracks.

The repetition of physical features along Dreaming tracks is mirrored by a corresponding (though not exact) repetition of narrative and lexical elements in the stories and song-cycles which provide an oral record of the Dreamtime creative activities and exploits of ancestral beings. Certain actions of ancestral beings are repeated over and over again - the hunting of animals, collection of foods such as fruits, yams or sugarbag, the performance of ceremony, urination, standing up and 'looking back' - sometimes resulting in a particular feature or features being left behind, sometimes not. This interrelated complex of significant features, narrative elements and lexical elements is subject to variability or change over time as a result of the oral and experiential nature of the intergenerational transmission of knowledge and customary responsibility for land.⁶

In my experience Aboriginal people do not perceive any inconsistency in the multiple forms of ancestral beings and the repetition of their actions. Neither do they see any inconsistency in the regional duplication of particular Dreamtime creative episodes, such as the origin of the 'cheeky' yam, for instance, or the form of an animal such as

⁶ See, for instance, Munn 1970, 1973; Wild 1987; Sutton 1987.

the echidna, which have distinct versions pertaining to different areas and groups in the VRD. There are many similar examples - the exploits of the Moon, *Jakaliyn*, which occurred independently at many different isolated locations; or the endeavours of *Jirrikik*, who, in separate countries and traditions, carted load after load of spears from far away in his unsuccessful efforts to spear a crocodile. In fact, such variation is taken as proof of the independent creative origin of different groups and countries. It provides a foundation for the separate authority and responsibility of each group.

4.3. Dreaming trees and symbolisation

In the sense that Dreaming landscape features are regarded as being real (transformed) beings and objects, it is incorrect to regard them as merely symbolic. However, some Dreaming features do have symbolic attributes - a condition which is also supported by the evidence of symbolisation in the interpretive responses of Aboriginal people to landscape (eg see Merlan 1982; Morphy 1995). A relevant example is that of Dreaming trees, that is, certain trees and other plants which commonly occur as transformations of Dreaming beings or of objects left by them.⁷ One obvious advantage of plants as physical symbols is that they generally occur throughout the landscape, even in places where other distinctive features such as hills or rocks may not exist, and are always found along watercourses and at permanent water, such as springs, waterholes and billabongs. Permanent water bodies and watercourses are often central elements of sacred sites and Dreaming tracks. Within such contexts, trees often function as symbols for recurring themes such as successive transformations of an ancestral being along the length of a Dreaming

⁷ See examples in Plates 2, 5, 7-10, 13, 19-22, 25-26.

track⁸. In being so, they possess intrinsic characteristics which have symbolic content relating to their Dreaming significance.

An obvious symbolic attribute of vegetation is its varied expression as different species or taxa. Particular species or taxa (defined according to Indigenous systems of classification) have common Dreaming-defined meanings or symbolism, forming a crude lexicon. For instance, a particular Dreaming tree may be the same species to which reference is made in the particular narrative or song associated with the feature. Thus a *jardgala* tree (*Ficus racemosa*) near Timber Creek represents the *jardgala* fruit dropped from the coolamon of a frightened ancestral being as she ran from the creek where she was collecting them. Nearby, her coolamon can be seen as a single *kulinjiri* tree (*Gyrocarpus americanus*), a soft-wooded species still used to make coolamons (which are also called *kulinjiri*). Such trees are testimony to the Dreamtime origin of the economic use of these species. Other species may have a less literal symbolic meaning. For instance, *walari* (*Eucalyptus papuana*) and *timalan* (*Eucalyptus camaldulensis*), two of the most common Dreaming tree species, are almost always found as transformations of ancestral beings. Still other species can articulate more than one kind of meaning, depending on the particular narrative context. *Jamulang* (Boab, *Adansonia gregorii*) is a good example, being found in different situations as variously, a transformation of an ancestral being or an object left by such a being; or an archetype food source. Commonly, particular Dreaming trees are referred to in conversation or represented in song cycles by their Aboriginal taxonomic names.

Another important symbolic quality of vegetation is its ability, through its longevity and power of regeneration, to articulate continuity and yet accommodate change. On one

⁸ Over half of the occurrences of Dreaming trees in the VRD which I have encountered are transformations of ancestral beings.

level it may be regarded as problematic that vegetation features with finite life spans, must be constantly renewed and reincorporated into the body of Dreaming history - a history with an ideology that portrays it as fixed and unchanging. However, just as knowledge and authority must be passed from generation to generation of people so, on a longer cycle, the spiritual significance of Dreaming trees may be passed from tree to tree. Both processes evoke a sense of continuity. On the other hand the fact that vegetation dies and regenerates in similar or changed ecological configurations provides opportunities for cultural interpretation and re-interpretation which can reflect changing cultural and social conditions as well as ecological shifts and anomalies over time. The destabilising potential of such change is offset by the fact that Dreaming trees would normally survive for many human lifespans, engendering a sense of continuity in the Dreaming landscape.⁹ These important implications for cultural and social change will be discussed in more detail below.

The life-cycle of trees is important in another respect, in that Dreaming trees are generally mature specimens. Thus, in situations where there are juveniles or young trees of the same species in the vicinity of Dreaming trees, custodians usually indicate that these are not spiritually significant. The basis of this exclusion of juvenile trees indicates a distinction between the obviously recent (usually described as having 'only grown up from seed') and mature specimens regarded as of Dreamtime origin¹⁰.

Other form-related symbolic characteristics may also include unusual structures, shapes, sizes and orientation of particular trees or other significant vegetation. This can be anything from a pronounced bend in a tree,¹¹ particularly formed limbs or

⁹ The life spans of most trees would far exceed the two or three generation depth of remembrance of deceased forebears.

¹⁰ See also Merlan 1982:162.

¹¹ See, for example Plate 7.

protuberances, marks on the bark or the unusually small or large size of the tree. Alternatively, the distinctive physical character of a particular vegetation type, such as pandanus (*Pandanus spp*), may be significant. Thus, physical forms are thought to embody relevant physical characteristics of ancestral beings or of their actions or of objects used by them.

On one level, then, Dreaming vegetation embodies an implicit codification of Indigenous conceptualisation and use of the landscape/environment. It is one aspect of a view of broader Indigenous relationships to land as being underwritten by the existence of particular sites and environmental features which codify the landscape as a cultural artefact.

4.4. Dreaming ecology and contemporary cultural landscapes

An encoded knowledge base

In one sense, Dreaming trees and other spiritually significant plants constitute an encoded knowledge base representing the cumulative ecological insights of previous generations. The very plants which are regarded by Aborigines as ageless¹² transformations from the Dreamtime were first identified as such by their not too distant forebears. Their choices reveal many clues about the ecological knowledge of those who recognised in such plants the continued existence of ancestral beings in the landscape. The succession of plants in which the spirits of ancestral beings have been manifested represents an ecological narrative for these sites of which only the most recent chapter is readily apparent.

¹² It is generally stated that these trees have always existed since the Dreamtime although behind the public articulation of such ideology is a more complex recognition of change. This is discussed further below.

Ecological anomalies and the Dreaming landscape

Sometimes unusual or striking occurrences of trees or other plants provide evidence or expression of the plants' association with the Dreaming landscape. The most striking examples of the importance of ecological context are those where plants are ecologically out of place, in unusual habitats or plant communities, or at the extent of their local or regional ranges.¹³ An example of this occurs on Auvergne Pastoral Lease within the Dreaming track of *Malajaku* (Goanna), where a few isolated *muying* (*Vitex glabrata*) trees grow in a saline habitat in which they are not normally found. Custodians recognised the unusual context of the trees stating that they were 'put' there by the *Malajaku* ancestral beings.¹⁴ Even common species can be found in unusual or isolated occurrences. For instance, Boabs are sometimes found as isolated individuals, particularly towards the limit of the species' range. *Timalan* (*E. camaldulensis*) and *jartkala* (*Ficus racemosa*) are other notable examples, particularly where these are at the limits of their ranges within individual watersheds or away from their preferred habitat along creek and river margins.

Some sites have a complex assemblage of 'out of place' plants. For example, on Victoria River Downs Pastoral Lease is a site focused on a small rocky knoll in undulating grazing country. The site is one of a number of places where spears thrown

¹³ Unusual ecological contexts are also of particular interest to western ecologists who usually regard such occurrences as indicating high scientific and/or conservation value. This includes species which are rare or endangered or at the limit of their geographical range; relict species which have survived long or short-term environmental changes; or species occurring because of unusual environmental conditions. These are seen as important expressions of biological and ecological diversity. Researchers have also recorded Indigenous systems of land classification broadly comparable with 'scientific' systems (eg see Baker 1993; Chase and Sutton 1981; Jones 1985; Baker et al 1992).

¹⁴ Field notes of the author.

from a long way by the Flying Fox, *Warrpa*, landed. At this site the spears struck an archetypal *ngamanpuru* bush (Conkerberry or *Carissa laceolata*), scattering pieces in all directions and thereby spreading this species throughout the country in which the spear landed. The spears which *Warrpa* threw are found on top of the knoll, transformed as a number of *wilit* trees (*Grewia brevifolia*), a species which is used to make spear shafts and whose name the site is known by. This is an isolated occurrence of *wilit* in the surrounding landscape. The archetype Conkerberry bushes are also present on top of the stony knoll, however, this is not a normal habitat for the species and moreover, although found extensively in the wider landscape away from the site, the immediate vicinity of the knoll is surrounded by a *Terminalia* shrubland in which Conkerberry is not present at all. Other Dreamings are also associated with the site. For instance, one collected Conkerberry at the site and is found transformed as a large *jartpuru* (*Eucalyptus dichromophloia*) tree entwined around which is a large *Tinospora smilacina* vine. The vine is also spiritually significant. Both of these species are uncommon in the vicinity.

Dreaming tracks and the cultural importance of riparian corridors

In a broader sense, a central ecological narrative of the Dreaming landscape is revealed in the strong correlation between riparian occupation corridors, major regional Dreaming tracks and Dreaming vegetation. Almost two-thirds of the total length of seven major Dreaming tracks in the northern section of the study area traverse important riverine corridors. In these riverine environments there is a pervasive connection between cultural and ecological imperatives. For example, one of the *Walujapi* (Black-headed Python) ancestors travelled through Ngarinman country along Barrabarrac Creek where today springs permeate the distinctive limestone geology of the area, surfacing as a series of permanent waterholes along the creek. These were

formed from the *kumpu* (urine) of *Walujapi* as she progressed slowly along the creek, engaged from time to time in ceremonial activity. These springs and waterholes are ecologically important to the area, providing permanent water for wildlife and supporting a rich riparian vegetation¹⁵. Much of this vegetation is also spiritually significant, being either transformations of *Walujapi* and other ancestral beings or objects they used, or alternatively, the actual useful species which they left as food, medicines etc. Along this corridor are numerous occupation sites which were intensively used by local groups.

Walujapi's travels link many such important local corridors for groups located along the Dreaming track. For instance, to the east over the top of the escarpment which separates the catchments of the East Baines and Victoria Rivers, *Walujapi* continued to Jasper Gorge, a rich corridor of permanent waterholes and intersecting pockets which pushes through the Stokes Range to emerge onto the upland plains of the Victoria River. Similar patterns can be found for other major Dreaming tracks in the VRD.

The cultural importance of these corridors is also evidenced in the manner in which they form zones of multiple articulation and overlap of the boundaries of different cultural groups. The boundaries of language-defined groups and smaller estates tend to join along such corridors, often overlapping or alternating with respect to their ownership of the riverine corridor itself. An important factor here appears to be that ancestral beings associated with these tracks conceived and performed important rituals as they travelled, interacting with more localised Dreamings and creating shared spiritual connections between different groups which underwrite common economic

¹⁵ cf Braithwaite n.d. There is also evidence that riverine habitats in seasonally drier areas of the VRD are biologically significant (Tiedeman & Wilson 1992). In such areas sacred sites, particularly those with spiritually significant vegetation, frequently comprise waterholes and seepage zones.

and ecological imperatives. In strongly seasonally-affected environments such as the VRD, there is an obvious need for resource-rich habitats to be shared. This would have been particularly significant during drier seasonal times or when large ceremonial gatherings occurred.

4.5. Cultural continuity and change

Maintaining connection between the Dreaming past and the present landscape

The kinds of cultural knowledge about land outlined in the previous section rest on the maintenance of links between 'Dreaming history' and the present landscape. These links are manifested in the knowledge Aboriginal custodians hold with regard to the nature of sacred sites and the ancestral beings which continue to reside at these locations. In the VRD and elsewhere, ancestral beings remain ever-present and potentially active such that processes of Dreaming creation and action can continue to occur in the present although usually in altered or more subtle ways than when the ancestral beings roamed the world in their original forms¹⁶.

Thus signs of the current actions of ancestral beings can be read and interpreted from the landscape and from the events and circumstances which befall people, animals and the land, by those who have the appropriate religious understanding and authority. Aboriginal people travelling through country constantly observe, discuss and interpret the Dreaming landscape. These day to day interpretations, drawn from change in the natural world and its associated phenomena - the weather and seasons, the biological world, and the vagaries of life experience, are in turn counterbalanced by a corresponding interface between the present and the Dreaming past through the

¹⁶ eg see Myers 1986 (Chapter 5, note 4); Merlan 1982:163-4.

selective intergenerational transmission of knowledge - a kind of generational knowledge filter¹⁷. The former process acts to constantly generate cultural knowledge while the latter acts to modify and shed knowledge via novel or omitted oral transmission. New knowledge is also believed to be transmitted to people from ancestral beings or spirit-familiars through the medium of dreams or through direct interaction with their spirit manifestations.

Interpreting signs in the landscape

To Aboriginal people observing the landscape, 'nothing is nothing' (Sutton 1989:13). Observation of 'signs' in the physical world provides constant acknowledgment of the existence (and constancy) of the Dreaming. The signs may be expected, as in say, the appearance of cyclical weather patterns such as the wet season¹⁸ or distinctive seasonal cloud formations, or they may be unexpected or unusual phenomena. For instance, Rose (1992) noted an incident where an unseasonal storm was attributed to the disturbance of a 'rainbow serpent' in the form of a snake which someone shot at and narrowly missed. I have encountered similar incidents. One occurred when I visited by vehicle the vicinity of a dangerous site with custodians. On the return journey, the vehicle suffered four flat tyres and a damaged axle. Custodians interpreted this misfortune to the fact that the man most responsible for the area which we visited had not properly addressed the resident Dreamings concerning the intentions of our visit. Aboriginal people relate many stories of misfortune, sickness and death which have befallen people who inadvertently or carelessly disturbed sacred sites or

¹⁷ See for example Rose, D 1992: 203-210. I take this to include the kinds of change, described by a number of researchers, resulting from the adaptation and innovation of oral traditions, eg Sutton (1987), Wild (1987).

¹⁸ The Wet season and accompanying flooding of parts of the landscape ('floodwater') are regarded as being initiated by the actions of Dreamings.

otherwise acted improperly or without due circumspection.

As suggested above, signs derived from the biological world, particularly vegetation, are relatively common. On one occasion I was driving with a custodian to his outstation when he pointed out a young tree beside the road. Noting its unusual ecological location (the species is normally found on rocky hillsides, but here was on black soil) and its proximity to a number of similarly located trees of the same species which were regarded as having been left by an important Dreaming, the custodian commented that the young tree beside the road was 'coming up' from that same Dreaming.¹⁹ Importantly, such occurrences are not random, but conform to the established local totemic geography (Strehlow 1970), and are appropriate species for the significance which they are taken to represent.

The above provides a sense of how, in an appropriate totemic/geographic context, new, spiritually significant vegetation can be identified and incorporated into the body of local traditions by Aboriginal custodians. Longer term vagaries characteristic of the oral transmission of knowledge over generations make it easy to imagine how the importance of such trees might increase over time while the memory of others which have died will fade and disappear²⁰.

Spiritual bonds of people and place

Aboriginal people have provided considerable evidence of such processes in action. For instance, the degradation (or death in the case of trees) of particular spiritually

¹⁹ Field notes of the author.

²⁰ Compare with the example given in Myers 1986:64 of the discovery of an unusual outcrop of minerals. See also Merlan 1982:163-4.

significant physical features of sacred sites is sometimes attributed to the death of important custodians of the sites²¹. In some of these cases it has been implied that the loss or damage was permanent, while other instances have revealed a process of 'Dreaming succession', that is, as particular sacred trees grow old and die the spiritual significance passes on to new trees of an appropriate species²². I have recorded numerous instances of these processes within the study area. Sometimes custodians have expressed uncertainty as to whether a process of succession will occur or not. Where succession does occur it is said to take the form of re-growth from the roots of the dead tree or by the appearance of an individual tree of the same species near the location of the dead tree. In one instance the senior custodian of a sacred tree which had died many years previously, identified a live tree of the same species growing nearby as its successor. Interestingly, the custodian waited until he had a son to whom he will eventually pass on responsibility for the site before the process of succession was completed²³.

These apparently contrasting responses to the death of spiritually significant trees share a common basis of belief recognising a strong and indivisible connection between those individuals who hold traditional knowledge and responsibility and the site features and ancestral beings to which such knowledge and responsibility relates.²⁴

The significance of lived experience in creating new connections between people and place of a spiritual nature is highlighted by a further example. In the Timber Creek area

²¹ I have recorded many such accounts during the documentation of sacred sites in the area. See also Rose, D. 1992:108-9.

²² See also Rose, D. 1992:211. Merlan 1982 surmises a process of transfer of an individual's name to another Dreaming tree, but does not discuss the process of the replacement of Dreaming trees themselves.

²³ This same incident is also described in Rose 1992: 211.

²⁴ See also Munn 1970; Merlan 1982.

I was told by Aboriginal custodians that a number of large non-Dreaming trees which had died along the banks of a creek beside an old pensioners' camp had done so because they were connected with the spirits of the individuals who lived at the camp for a long time. When these people died, so did the trees, or, as one custodian commented to me, 'the old people took the trees with them'. These were favourite shade trees under which they spent much time, telling stories and singing songs associated with their country. He also told me that he has similar connections with a nearby tree under which he was born.²⁵ New connections are established as people are born and develop a knowledge of and relationship with the spiritual landscape, and old connections are lost with the passing of old people and the death of trees which are significant in the spiritual expression of their lives.

Change in patterns of significance

The above illustrates what I understand to be important aspects of the dynamic nature of Aboriginal tradition in the VRD. By its very existence, Dreaming vegetation highlights the fact that the processes of its identification and management by Aboriginal custodians must, to some degree, result in changing patterns of significance within the landscape over time. While this might not accord with populist non-Indigenous notions of a fixed and finite set of sacred areas and features,²⁶ its basis in traditional practices and its contemporary cultural significance remains undiminished. The fact that, as noted above, this reality seems to contradict Aboriginal statements claiming the Dreamtime origins of such features, is explained by their beliefs about the continuity of spiritual presence in the land. In this respect Aboriginal people recognise a distinction

²⁵ Field notes of the author.

²⁶ As is assumed, for instance, by those who have called for all sacred sites to be documented and recorded to maps (see Chapter 9 for further discussion).

between the bounded physical manifestation of ancestral features in the landscape and the spiritual presence or substance of Dreaming beings themselves. Its substance can be manifested in new forms, such as the example of the young tree beside the road mentioned earlier. The example shows that changes in the cultural significance of land has two components – change in the landscape itself, and change in ongoing experience of the land.

4.6. Maintenance of cultural attachment to land

Why access to land is important

In more recent times the complementary processes of re-creation and loss have been thrown out of balance because of the restriction of access to some areas and the consequent inability to re-create links through direct use and experience of the country. Historical factors such as the fragmented patterns of survivorship of land-holding groups and alienation from traditional lands have resulted in an uneven holding of knowledge about country, often relying heavily on a few key individuals. This, combined with continuing restrictions on opportunities for access, has meant that important aspects of cultural traditions are particularly vulnerable on some land.

Ultimately, the continuity of many aspects of cultural connections of individuals to land described above depends on continuing access to those lands irrespective of questions of legal ownership, land management issues or other external factors. Traditional land use practices in sum define the scope of a duty of care and custodianship between Aboriginal people and the land and its features to which they are spiritually connected. Rose (1992a: 107-9) observes that this relationship is a two way one in that in order for people to activate their right to derive nurture and care from

the land, they must take responsibility to learn and observe its intimate features and to manage and care for it according to tradition²⁷. This cannot be properly achieved without significant and ongoing access to traditional lands. Denial of such access therefore also denies the means of continuing to maintain important aspects of cultural and religious attachment to the land and in this respect represents a form of cultural genocide.

Cultural practices create attachment to land

It follows that it is not adequate to simply make provision for access to traditional lands without also considering what activities in sum create and maintain traditional attachment to it. So what are these? The above discussion suggests at least three broadly overlapping kinds of activities: those associated with the management and care of the physical and spiritual integrity of the land; those associated with observing and learning about it; and those associated with the use of its resources. They include such acts as²⁸ the performance of ceremonies and rituals associated with country, carrying out management and maintenance activities such as burning the land, caring for features such as springs and soaks, and ensuring that sites are not damaged as a result of the improper access and behaviour of others. Even visits to country for hunting, fishing and foraging are seen as integral parts of the proper care and maintenance of the land. Observing and learning about country are also important, particularly for the acquiring of knowledge and experience by the younger generations who will eventually take over responsibility for it. Senior custodians too must observe

²⁷ An alternative perspective on Aboriginal relationships and responsibility to land in a central Australian context is found in Myers 1980.

²⁸ The nature and importance of these kinds of activities have been extensively documented in the many land claim hearings in the Northern Territory. These hearings must determine, amongst other things, the 'spiritual affiliation', rights to traditional access and use, and 'strength of attachment' of the claimants to the land under claim.

the land in order to know when to undertake specific tasks such as burning; and also in order to 'read' the signs of seasonal activity and change which are characteristic of the spiritual landscape.

Some of these activities may be carried out remotely from the land to which they relate. This includes the performance of ceremonies and rituals and the transmission of stories and experience concerning the land and sites. The ability to maintain knowledge and traditions relating to country in this manner has been crucial in the context of the physical alienation of people from their traditional lands.

Cultural practices requiring access to land

However, many activities require access to the land itself. Generally, these are not carried out in isolation but rather, within contexts which have a multi-focus. For example, a specific activity related to the management of significant vegetation is the careful timing and control of burning to protect it from damage. However, this may be carried out in the course of a hunting trip or a visit to a waterhole for fishing. Many researchers have observed that Aboriginal use of country is usually multi-purpose, incorporating some or many of the kinds of activities described above (Povinelli 1993, Head & Fullagar 1991:44, Walsh 1992, Rose, D 1992). One of the difficulties which this presents is that the multi-purpose, integral nature of Aboriginal land use activities is not well served by Euro-Australian modes of land ownership and management, nor by the fragmented and narrow purview of Indigenous rights legislation (see Chapter 9).

4.7. Non-Indigenous impacts and implications

Maintaining cultural practices against the odds

Indigenous cultural practices relating to land have survived and adapted to the kinds of pressures imposed by Euro-Australian legal, administrative and social regimes. The history of culture contact reveals the success of Indigenous people in applying traditional practices and principles to new circumstances often weighted with indifference or latent or actual hostility towards their cultural traditions. The extent to which cultural maintenance activities have been structured into pastoral work and station regimes is perhaps the most powerful example of cultural survival and continuity in the VRD, and one to which I will return in the coming chapters.

Nevertheless, in many parts of the Northern Territory, including the VRD, significant numbers of Aboriginal people remain landless and unable to effectively access their traditional lands. On some lands, such as pastoral leases, public purpose land and town spaces, traditional practices continue to be discouraged or prevented by management practices such as fences, locked gates, and encroachment on cultural sites. Sacred sites continue to be needlessly damaged or destroyed. This thesis provides a number of examples, including those that introduced Chapter 1 (see also Plates 1-4, 9, 11, 12, 17, 21). In many areas, particularly non-Aboriginal owned pastoral lands, and public purpose lands such as road corridors and town areas, cultural elements of the landscape, including vegetation features, remain disturbingly vulnerable (see Plates 5, 11, 12, 21, 22, 25, 26), while Indigenous use and access of the land continue to be significantly restricted.

These impacts reflect the central reality of the contact history of the area - that significant areas of the land have been appropriated to non-Indigenous ownership,

control and use with little or no thought given to the rights and interests of Aboriginal people. While this has been readily apparent with respect to the macro processes of pastoral occupation of the land, less obvious has been the cumulative impact of the many incremental acts of appropriation ranging from ongoing development and economic activity to the increasing numbers of tourists, anglers and other visitors who provide a constant background presence.

Competition over key landscape forms

What is more, the areas regarded by both sides as being the most valuable and desirable in terms of resources and suitability for cultural and economic use, often coincide. This includes major permanent water sources and riverine corridors - landscapes subject to the most intensive use, impact and alienation by non-Indigenous land uses, particularly those associated with the pastoral industry and the establishment of national parks. In the Northern Territory and other areas of tropical and semi-arid Australia, the viability of pastoralism depends on the use of natural permanent and semi-permanent water sources. Many station homesteads are located in the vicinity of permanent waters which are also important sacred sites and most of these locations include spiritually-significant vegetation (see for example, Plate 25). Within national parks permanent waters and riparian habitats are regarded as essential in the provision of visitor day access and camping facilities. Many of the concerns raised by Aboriginal custodians regarding non-Indigenous use of or damage to country involves such sites. These issues are considered further below.

Permanent waters and riparian landscapes associated with ancestral Dreamings have provided a focus for contemporary Aboriginal aspirations for occupation and use. As an illustration of this point, almost all of the locations in the study area at which Aboriginal

people have sought to establish permanent communities and outstations have been sacred sites which comprise permanent water sources, most of which also have Dreaming vegetation features. In the past these were often favoured campsite locations as well as being areas of intense resource utilisation.

This strong tendency for Aboriginal communities to be established at or near sacred sites, and particularly around Dreaming trees, also has a strategic underpinning in the desire of custodians to protect such features from inadvertent damage (see Plates 7, 20, 22). The strategic nature of Aboriginal action with regard to protecting sacred sites will be considered further in Chapter 9.

Damage to Indigenous cultural landscapes from European land uses

Damage to sites by Euro-Australians has been a constant and continuing consequence of their appropriation of land. One source of damage to sites is through management activities on pastoral leases. This includes the construction of fences, tracks and yards (see Plates 1, 21, 23), most of which continues to occur without consultation with local Aboriginal custodians. On one local pastoral lease three separate incidents of the cutting down or bulldozing of spiritually significant vegetation occurred within the vicinity of a small Aboriginal 'excision' community in which the relevant custodians of the sites lived (see Plates 2, 3, 21). Each of these incidents could easily have been avoided if the manager had chosen to consult with members of the community (at present the *Sacred Sites Act* does not compel landowners to consult with custodians before carrying out works on their land unless the area is already formally registered by the AAPA. See Chapter 9 below).

Mining exploration activities also pose a threat to sites although many mining

companies now voluntarily consult with custodians when planned works will significantly disturb the ground surface. However, not all do. In a recent incident, a West Australian mining company, dismissive of the need to consult regarding sacred sites, carried out bulk sampling works on a sacred site along the Victoria River (see Case Study 1 in Chapter 10). The increasing amount of mining exploration activity in the area is anxiously monitored by Aboriginal custodians. My own experience has been that custodians have regularly expressed concern and sought clarification about rumours or evidence of activity which they suspect may be related to exploration or mining.

National parks and other crown public-purpose lands fare somewhat better in that Northern Territory Government departments have an administrative policy of consulting with custodians through the AAPA prior to undertaking capital works. Nevertheless, incidents of damage to sites continue to occur, mostly as a result of poor supervision and control of private works contractors (see, for example, Plate 9). Increasing development, particularly within national parks has also seen the steady encroachment of significant areas by tourist/visitor/management infrastructure.

4.8. Conclusion

Questions of continuity and change in the occurrence of Dreaming vegetation over time require an inter-generational perspective: the existence of such vegetation derives from the cumulative insights of previous generations passed on to the present generation and maintained and augmented by their own experiences²⁹. This presents a picture of dynamic cultural processes in which the sophisticated ecological

²⁹ A consequence of this is that some of the vegetation features themselves and the habitats in which they are located are of special conservation significance.

understanding which underpins (and is frequently used to explain) Dreaming vegetation exists within a matrix of knowledge and values derived from associations with the ancestral landscape. Central to such processes are the active observation and use of the environment - distilling from it vegetation occurrences which link the present environment with the form of its Dreaming origin. In this the discontinuities of vegetation distribution are evaluated against the discontinuities of the ancestral or spiritual landscape. In other words, the existence of Dreaming vegetation depends on an intimate knowledge of and interaction with the land on which it exists.

Western scientific approaches often divorce knowledge from its cultural contexts. The present chapter demonstrates that, from an Aboriginal viewpoint, knowledge of the physical environment fully realises its meaning only within its cultural context. In particular, the many instances of ecologically out-of-place trees and other forms of vegetation which have been identified as culturally significant are pertinent examples. Within such a system where 'everything is something' we need to pay particular attention to what that 'something' is. It is this understanding which should inform attempts to reconcile Aboriginal traditional knowledge systems with Western 'scientific' understanding of the environment. This should not be an end in itself but rather part of a process of seeking to understand Aboriginal cultural management of the land and to ensure that it is comprehensively recognised and supported in legislative and land management regimes.

Access to traditional lands is a major factor enabling cultural links to be maintained. It is clearly inappropriate to ignore the fact that some areas of traditional lands remain effectively inaccessible as a direct or indirect result of their land tenure status. In such areas the protection of Aboriginal cultural rights is not adequately served by current legislation.

At the very least the results suggest the need for a more comprehensive approach towards identifying and acknowledging Aboriginal associations with the land. In particular, more attention needs to be given to the recognition of Indigenous cultural landscapes rather than simply to individual site protection. Moreover, such recognition needs to acknowledge the particular cultural perspectives of the Aboriginal people for whom these associations are important, as well as the cultural practices on which their maintenance is based. It requires as an underlying principle, self-management by Indigenous people themselves. At present this occurs only in isolated examples. The achievement of such recognition is not a simple task and provides significant challenges and opportunities for the post-*Mabo* reform process (Ross et. al. 1994).

The cultural significance of major riverine corridors for Aboriginal people also closely coincides with areas subject to intensive non-Indigenous use for community, pastoral and national park purposes, resulting in such areas figuring prominently in local conflicts over non-Indigenous land use impacts and Aboriginal cultural values (see also below).

Plates 7 - 12



- Plate 7:** This unusually formed sacred tree is protected from inadvertent damage by its location within an Aboriginal community.
- Plate 8:** A sacred tree which has died and fallen in a deep body of water is called *jalmin* and continues to be regarded as spiritually active. This *jalmin* is on Auvergne Station.
- Plate 9:** Unauthorised road works which have damaged a sacred site on the Victoria Highway.
- Plate 10:** Auvergne floodplain. The solitary tree, occurring out of its normal habitat, is regarded as of Dreaming origin.
- Plate 11:** A sacred site damaged by construction of the Victoria Highway. The highway was subsequently diverted around this site at the request of custodians.
- Plate 12:** A sacred site damaged by construction of the Victoria Highway.

CHAPTER 5: THE HERITAGE-ISATION OF INDIGENOUS CULTURES

5.1. Introduction

Gregory's Tree

On the 13th October 1855, members of Augustus Gregory's North Australia Expedition selected a site on the banks of the Victoria River as a base camp for their exploration of the Victoria River valley. In the centre of the camp:

stood two splendid gouty stem or baobab trees which, in honour of his leader, Mueller named Andanson [sic] gregorii. A camp-fire was set under the larger baobab tree and a forge built at the back of the camp. In due course, Henry cut down the smaller tree, its substantial stump provided an excellent table and the trunk was gouged out to serve as a trough for the horses. For protection, not only from Aborigines but also from the nocturnal visits of marauding crocodiles, which had already taken one kangaroo dog, a wide ditch surrounded the entire compound, and later a fence was added (Birman 1979:113-114).

For the next eight months Gregory's camp remained, leaving behind a number of items and inscriptions, including the date of the expedition's departure, 2nd July 1856, carved into the trunk of the Boab tree¹ (see Plate 15). Gregory's camp was the first European occupation of the area.

Gregory's party was keenly observed by local Aboriginal people who reacted cautiously to their initial presence, expressing their displeasure at the invaders' presence on a number of occasions but eventually becoming frequent visitors to the camp (Birman 1979:140). There does not appear to be any specific remembrance of

¹ Willshire (1896) gives an account of his visit to the site in 1895.

Gregory's expedition in local oral tradition,² however, it is apparent that significant cultural protocols were breached. For one thing, the surviving Boab tree was important in local religious tradition, being regarded as a transformed feature left behind by an important Dreaming ancestor who travelled along the Victoria River.³ A large River Red Gum⁴ nearby on the riverbank (long since washed away by flooding) was also important in local religious tradition, being a transformation of a different Dreaming ancestor.⁵ Gregory's party had unwittingly occupied a sacred site. However, as an act of cultural insensitivity, occupation of the site may well have been out-done by the carving of the Boab tree. In local tradition, the cutting or carving of Dreaming trees is regarded as a serious and dangerous act, punishable under Aboriginal law. In addition, a method of malevolent sorcery practiced in the area involves the carving of pictographs representing the victim on the trunks of such trees. Perhaps local Aborigines thought that the invaders possessed such knowledge?

Whatever the truth of such conjecture, it is unlikely that those Aboriginal people who witnessed Gregory's camp could have imagined how significant the carved Boab tree would become to Europeans. Today the tree is one of the icons of European cultural heritage in the VRD. 'Gregory's Tree' as it has come to be known, was so highly valued that an historical reserve was declared around it in 1962 - one of only a few such reserves established in the Northern Territory at the time. In 1986, the boundaries of the newly-declared Gregory National Park were specially extended to include the tree, and the then Conservation Commission built a seven foot high man-proof fence

² Interestingly, while Gregory is absent, Captain Cook and Ned Kelly, although never having visited the area, have found a place in local VRD oral traditions. Local narratives about them serve to provide a moral commentary on European invasion and dispossession (see for example Rose 1991, 1994).

³ The tree was identified as a sacred site during research for a land claim hearing in the area in 1982 and was later registered by the then Aboriginal Sacred Sites Protection Authority (NLC 1984:56; fieldnotes of the author).

⁴ *Eucalyptus camaldulensis*, known to local Aboriginal people as *timalan*.

⁵ Fieldnotes of the author.

around it (Plate 13) and spent many thousands of dollars on erosion control works to ensure its protection.

The actions of the Conservation Commission in relation to the tree's European heritage sit uncomfortably with its Aboriginal cultural significance. From whichever perspective, honouring an act of cultural appropriation and unwitting vandalism carries political significance, particularly when the protection and use of the tree as an object of significant European cultural heritage had already been assumed and decided without reference to its Aboriginal heritage value. A further incongruity is that, from an Indigenous perspective, the fence and erosion control works would, in normal circumstances, be considered inappropriate measures. For one thing, the tree is only one of a multitude of trees and other landscape features left along the path of the Dreaming ancestor - a path which remains recorded and celebrated in the oral stories and song cycles associated with the Dreaming. One tiny protective enclosure amidst a richly-significant landscape makes little sense. In other words, the tree's Indigenous cultural 'heritage' value is only a fraction of that constituted by the network of Dreaming tracks and sites which comprise the Dreaming landscape in which the tree is situated. Comparatively, the physical legacies of Gregory's expedition are almost non-existent, fading, and his exact path remains unremembered and largely unimportant. In this regard, Gregory's Tree assumes for Europeans a singular, symbolic significance. The principal importance of Gregory to Euro-Australian culture lies not in the physical evidences he left (which are but isolated memorials), but rather in the ideological legacies of European appropriation and settlement which followed in his steps:

The great success of Gregory's expedition and his reports on the existence of vast grasslands was to lead to the great droving exploits, bringing stock to establish pastoral settlement in the Victoria River District and adjoining lands. Many of the natural features and watercourses in the area were named by Augustus Charles Gregory and these names are still in use today. Gregory

National Park has been named in honour of this great explorer and members of his expedition.⁶

The lauded legacy of Gregory finds its antithesis in the struggle Aboriginal communities face in influencing the consciousness of contemporary mainstream Australia about alternative cultural perspectives and histories of the land. The Parks and Wildlife Commission's sign makes no mention of the dispossession of Aboriginal groups that Gregory's 'great success' brought, nor the fact that the 'natural features and watercourses' he named already had Aboriginal names. And, of course, the final irony was to have the park and the tree named after him.⁷ We might observe that it is as if Gregory's Tree exists in a separate landscape from the one local Aboriginal people inhabit and value.

The case of Gregory's Tree and the mythologising of Gregory's legacies underscores the implicit privileging of Euro-Australian heritage over that of Indigenous Australians, but is also more broadly indicative of the wider position of Indigenous cultures in Australian society. While Indigenous groups have maintained a set of diverse, land-based cultures despite the ruptures of two centuries of colonisation, most Euro-Australians continue to understand Indigenous cultures in terms of a fairly limited and problematic set of stereotypes. Langton (1996), for example, has shown that over this same period the representations of Indigenous cultural forms and of the Australian landscape itself by mainstream Australian society, have been based on a false dualism of 'noble savage' and 'degenerate native'. The persistence of this dualism reveals a deep, continuing ambivalence towards Indigenous cultures that is steeped in 'colonial

⁶ Territory Parks and Wildlife Commission interpretive sign near Gregory's Tree (Plate 14).

⁷ The Parks and Wildlife Commission has persisted with a policy of naming national parks with European names except where underlying title to the land is held by Aboriginal groups. In the latter situation Aboriginal owners have insisted on Aboriginal names as part of leasing agreements (eg Nitmiluk National Park, Gurig National Park, Watarrka National Park). The NT Government has also called for the re-naming of Uluru-Kata Juta National Park, administered by the Commonwealth, to its European name – Ayers Rock.

memories' (Langton 1996).

In this chapter I take a similar approach to what has become a background to race relations in Australia by examining a trend of the last few decades towards viewing and representing so-called 'traditional' aspects of Aboriginal cultures in terms of a single Western paradigm - that of 'heritage' - an ethnocentric paradigm that, as we have seen with Gregory's Tree, has the potential to appropriate and control the physical elements of Indigenous cultures.

'Heritage-isation'

Heritage is not easily defined but might be broadly regarded as the products of individual and collective attitudes regarding what is important of the past as remembered and manifested in the present. The results are necessarily open ended, contingent and highly subjective (Lowenthal 1985). But as with history which, Diamond (1974) notes, 'has always been written by the conqueror', the place of Indigenous cultures within the Western paradigm of heritage is subject to the contingent interests and values of the dominant culture. The reality of 'Indigenous cultural heritage' is now all too self-evident, both within the formalised context of the heritage bureaucracy and as a feature of popular discourse.⁸ However, it is precisely because these contexts are defined and controlled according to Euro-Australian values and interests that the nexus between Indigenous 'cultural heritage' and Indigenous cultures is so problematic. The central questions which emerge relate to the impact of this nexus on Indigenous communities themselves and on their ability to assert their own cultural priorities in the

⁸ While its definition in some legislative and policy formulations is similarly broad (see for example Evatt 1996, Fourmile 1992), I argue here that an effect of the heritage paradigm, particularly in popular discourse, is to narrow its scope by fragmenting and essentialising culture.

face of the relentlessly normative pressures of mainstream Australia.

While it can reasonably be argued that the development of heritage protection mechanisms and the successes of Indigenous art and cultural tourism have been crucial in improving mainstream recognition of Indigenous cultural interests, such advances have not come without a price: firstly, of embedding distorted perceptions of Indigenous cultures themselves; and secondly, of subjecting them to a restrictive suite of institutional and social responses aligned to the interests of the dominant mainstream culture. 'Heritage-isation', as I term this process, rather than promoting understanding, essentially reduces complex socio-cultural concerns to 'heritage matters'. At the same time, the issues addressed by such 'heritage matters' do not necessarily coincide with the perspectives and concerns of Indigenous owners and custodians. In short, I want to consider the ways in which heritage constitutes itself as an agent of containment and control with respect to Indigenous cultures.

5.2. The heritage paradigm

Modern development of the idea and practice of 'heritage' has occurred in parallel with the globalisation of world economies and the corresponding erosion of distinctive aspects of national and ethnic cultures and the natural environment. Expanded from its original sense as familial inheritance, heritage also came to refer to valued national ideals (so-called 'national heritage'), and only more recently to represent 'those valuable features of our environment which we seek to conserve from the ravages of development and decay' (Davison & McConville 1991:1).

The meanings of heritage

Davison identifies three 'traditions of interpretation' which have supported the heritage boom of recent decades, based on the 'psychological resonance' which the term evokes. The first is as a kind of 'spiritual mooring' against the disorientation of a rapidly changing world; the second, as a consolatory idealised past contrasted against the perceived decline of the present; and the third as a response to the need to develop an autonomised past to bolster 'national immaturity' (Davison & McConville 1991). These 'traditions of interpretation' are essentially Western traditions which have evolved along with the concept of heritage itself - they have no intrinsic meaning from an Indigenous perspective and, in fact, act to obscure an Indigenous presence. This is nowhere more evident than in the major themes which have come to dominate mainstream Australian views of heritage: convicts, explorers, pioneers, diggers, etc. The Pioneer Legend, for example, constructed amidst a rise in Australian nationalism and depressed economic conditions of the late 1880s and 1890s, became a heroic tale of European settlement in which Indigenous peoples scarcely rated mention (Hirst 1992, Watson 1998). The persistence of these themes as popular cultural icons reflect the insular cultural perspectives of an urbanised, predominantly Anglo-Celtic settler society, as well as those of governments, major corporations and other sectors of business, particularly the tourist industry.

Heritage and conservation

The modern idea of heritage is closely related to that of conservation. Conservation has come to embody the goal and practice of heritage to the extent that the two terms are generally used together in compound form as 'heritage conservation'. Within Australia and other western-style nations, 'heritage conservation' has spawned the

growth of essentially white middle-class conservation organisations concerned with the protection of heritage-valued aspects of the built and natural environments. The latter, focused on what is termed 'nature conservation', have successfully lobbied for the establishment of a system of reserves and national parks that have been described from an Indigenous perspective as 'a disguised and politically acceptable dispossession of Aboriginal people' (Langton 1996:18). Pointing to the fiction of a 'wilderness' concept which seeks to deny Indigenous occupation and use of the land, Langton calls for a redefinition of 'the notion of wilderness and the institution of the National Park'.

In line with such a re-definition has been the emergence of joint management arrangements in some national parks, mostly in situations where there is Indigenous ownership of the park (eg Kakadu, Uluru-Kata Juta, Nitmiluk). However, Gregory National Park is owned and run by the Northern Territory Government, and formal Aboriginal involvement in management is limited to the employment of an Aboriginal ranger and a place on a management advisory board consisting of local stakeholders such as tourism and pastoral interests (NTPWC 1998). Such a heavily non-Indigenous controlled management structure effectively ensures that Aboriginal involvement is, at best, token.⁹

The example of Gregory National Park shows how progress towards such re-definition has encountered considerable resistance, reflecting the magnitude of the schism between Euro-Australian values and interests and the concerns and aspirations of Aboriginal communities. A significant cultural dimension to this schism is the privileging or valuing of nature conservation values and non-Indigenous amenity over the

⁹ More recently, a new model of government-funded conservation areas – that of "Indigenous Protected Areas" – has been established as a means of addressing some of the cross-cultural difficulties of national parks and jointly managed national parks (see Smyth and Sutherland 1966),

customary rights and attachments to land of Indigenous groups. Heritage conservation policy is implicated here to the extent that the principal goal of heritage conservation - the protection of outstanding and representative examples of natural and cultural environments - fails to meet the aspirations of Aboriginal communities in seeking the *comprehensive* recognition and protection of areas of cultural significance and of their customary rights to land. Heritage conservation is predicated on the exclusion of relatively small areas or *representative samples* from development. Applied to Indigenous cultures it has focused on the problematic concept of the 'sacred site'¹⁰ as an appropriate, transactable unit of Aboriginal land-based 'heritage'. A problem here is that there is both poor understanding of what is constituted by the notion of 'sacred site' and of how such sites relate to the wider cultural systems and associated land interests of Aboriginal Australians.

Institutionalisation of heritage conservation

These problems with respect to the appropriateness of heritage conservation theory in relation to Indigenous 'heritage' have become embedded within the heritage institutions and processes which have been developed to administer heritage conservation. The result is that a significant proportion of Aboriginal cultural property now falls under the control of various pieces of heritage legislation¹¹. These have, in the main, been drafted with little or no involvement of Indigenous people, who remain

¹⁰ See Chapter 9 for further discussion.

¹¹ In the Northern Territory this includes sites that are 'sacred' or 'otherwise of significance according to Aboriginal tradition', moveable cultural property, objects and remains. The Commonwealth and some other States and Territories have similarly broad legislative coverage (South Australia, Victoria, ACT and Western Australia), while the remainder (New South Wales, Queensland and Tasmania) retain narrow, relics-based legislation (Evatt 1996). It should also be noted that, in practice, the operation of heritage legislation may act to exclude places or objects of Aboriginal cultural significance through the rejection of requests for protection by Aboriginal custodians (eg, see the case of Old Swan Brewery – Goonininup in Evatt 1996:285-289).

largely without significant or ultimate control over the fate of those aspects of their cultures incorporated into various legislative purviews (Evatt 1996, Fourmile 1992). Heritage institutions themselves broadly reflect mainstream values and power structures, referencing their authority to the national or State interests under the rubrics of cultural heritage 'conservation' or 'management'. The operation of such institutions has been dominated in recent decades by an 'archaeological paradigm' of heritage (Ellis 1994b) which has come under increasing challenge, most significantly from Indigenous communities and representative bodies seeking to re-establish rights of ownership and control over appropriated cultural and intellectual property, including areas of cultural significance on alienated lands (see, for example, Evatt 1996, Fourmile 1992, Greer & Henry 1996, Harris 1996, Pannell 1994, Morris 1989). With respect to the latter, an unacknowledged deficiency of heritage protection legislation is that it may protect a site, but not necessarily the cultural processes and wider cultural landscapes on which the existence and meaning of individual sites depends¹².

5.3. Indigenous cultures and the interests of nation, the academy and business

Indigenous cultures as 'Australian' heritage

The extent to which the place of Indigenous cultures within the heritage paradigm is a deeply ambiguous one can perhaps best be illustrated by the ideological role of

¹² By this I refer not so much to the performance of ceremony and ritual associated with sites, but rather the everyday patterns of visitation and use of country through which peoples' knowledge of sites and of their relationships to them are forged and maintained. Multi-purpose visits to areas, often organised around hunting, fishing or the collection of other resources, also provide the opportunity to monitor, observe, interact with and learn about country (see also Povinelli 1993). These core activities of 'looking after country' are particularly vulnerable on non-Aboriginal owned lands.

heritage in providing the foundations of a national identity - a sense of Australian nationhood - a nation based on the dispossession and subjugation of pre-existing Indigenous nations. It is a profound irony, then, that the Indigenous past, in being incorporated into an Australian heritage, has been used as 'an instrument of nationing' (Bennett 1988) to bolster and extend the national past and justify the means of its establishment. Bennett's comments on the text of a 1982 formal heritage policy document for the development of a Museum of Australia provides a cogent illustration:

...the role assigned to Aboriginal peoples is that of a mediating term connecting the history of European settlement to the deep history of the land...and its flora and fauna...(I)t overcomes any sense of rupture between the phases of pre- and post- [European] settlement in suggesting that Aborigines be viewed merely as a first wave of settlement... In this way, an essential unity is constructed for a 40,000 year span of history...a 'continuing story of the transformation of Australia from a country of hunter-gatherers to an industrial nation'... This also enables the discourse of multiculturalism to be back-projected into the mists of time where it finds its support in the regional variation of Aboriginal cultures (1988:15).

Academic knowledges and the politics of heritage

Bennett's comments neatly reveal the implicitly political nature of heritage, supported by 'scientific' or expert corroboration from academic disciplines such as archaeology, anthropology and history. For example, a number of writers have pointed to the problematic influence of archaeology on heritage theory and policy associated with Aboriginal cultural sites (Byrne 1993, Ellis 1994b, Greer 1995, Greer & Henry 1996). The 'archaeological paradigm' (Ellis 1994b) which has dominated cultural heritage policy since the 1950s has been characterised by a focus on the past, on 'scientific' methodology and 'physical evidences of earlier human activity', displacing concerns regarding the contemporary ownership of cultural heritage. Essentially, archaeology offers a way of seeing the past which fulfills the political imperatives of a narrative of nationing - a narrative that conceals the de-nationing (dispossession) of Aboriginal

peoples. And by asserting a professional self-interest to control the objects of their research discipline, archaeology not only legitimises dispossession, but helps carry it out as well.

In fairness, archaeology is not alone in having been appropriated in support of the interests of the dominant culture and, in so doing, elevate its own position as *the* experts on cultural heritage matters. Archaeology is but one example of what Young (1990:127) calls 'the deep complicity of academic forms of knowledge with institutions of power'. Anthropology has been implicated in contributing to 'the intellectual justification of the colonial experience' (Fabian 1983:17), a role which assisted its attainment of status as an academic discipline. Geography too, has its 'colonialist foundations' (Howitt & Jackson 1998:157). But, perhaps history, with its narrative structure, its dependence on documentary sources, and its populist reach, has contributed most to creating a firm nationalised foundation which has reinforced the marginality of Indigenous peoples whilst elevating selected elements of their cultures to iconic, stereotyped positions in the national image.

Corporate imperatives

Nationing narratives are also subject to 'discursive pressure...from the broader cultural environment' (Bennett 1988:15) which often acts, through exclusion or co-option, to neutralise or marginalise minority Indigenous interests. For instance, Australia's leading business corporations produce advertising strategies which claim 'to embody the future trajectory of the nation' by seeking 'to connect pre-existing nationalised images and traditions - the iconography of the Australian landscape, the frontier spirit, the motif of 'the quiet achiever' - to their public images' (1988:15). Here corporate self interest encourages exclusion rather than co-option, preferring the politically sanitised

backdrop of a *terra nullius* to one which, by the inclusion of Indigenous cultural interests in the picture, might suggest an untoward or distracting sense of cultural displacement. For example, Howitt (1995), has recently focussed attention on how the dominant regional development narrative of Comalco's Weipa bauxite mine in remote northern Australia, displaces alternative narratives of local Indigenous peoples and in so doing entrenches their marginalisation. He identifies one of the key factors in this process as 'the persistence of mining frontiers and metaphors in the social construction of meaning and identity in the nation's dominant economic and cultural paradigms' (Howitt 1995:7. See also Trigger 1997).

Where Indigenous interests are included in corporate development narratives the tone is co-optive, generally limited to discussion of the economic and social benefits of development for local Indigenous communities, together with assurances about cultural heritage protection. In other words, these are inclusions based on the need to maintain an image of good corporate citizenship or to fulfill requirements necessary to secure government approvals. What is of particular interest here is that this kind of formal acknowledgement of Aboriginal issues is either directly heritage-related as heritage conservation measures (sacred site and archaeological surveys, etc.), or indirectly, as evidence of the affected Indigenous communities' place in the grand national narrative of '*...the transformation of Australia from a country of hunter-gatherers to a modern industrial nation*'.

The linking of Indigenous heritage protection with development approvals

Exclusion or co-option, then, appears to make little difference to the ultimate fate of Indigenous cultural interests which remain subordinated to national, academic and corporate interests. Attempts by Indigenous communities to resist such processes

usually meet with frustrating ends. For instance, in cases where Aboriginal concerns or actions with respect to a development become public (ie., newsworthy) issues, as, for example, with concerns about damage to sacred sites, or the lodging of land claims or native title claims, these are generally portrayed by the company and within the mainstream media in terms of the detrimental potential to the development process (Howitt 1995). This may encompass not only detriment to national or regional development, but also the sabotaging of what is regarded as desperately needed economic development of Indigenous communities themselves. Indigenous communities finding themselves opposing a development for cultural reasons, for example, because of damage to sacred sites, are portrayed as shooting themselves in the foot developmentally.¹³

Such problems have been exacerbated by the structural linkage of heritage protection and development approvals processes, allowing Indigenous 'heritage' to become a legitimised (though contested) object of attention on the one hand, while at the same time portraying it as a barrier to the solution of 'contemporary' Indigenous 'problems' (health, housing, employment, education) on the other. This in turn has reinforced yet another contrived binary distinction: between Indigenous 'traditionalists' and 'modernists', representing respectively, cultural stagnation and social progress¹⁴. In this way broader debate about the place of Indigenous cultures in Australian society is being progressively inserted into and carried out within the discourses of heritage and

¹³ The case of the Jawoyn people's opposition to mining at *Guratba* (Coronation Hill) is a pertinent example. See, for example Brunton 1991a. See also Case Study 2 in Chapter 10 below for an example of the implicit use of such an argument in cross-cultural consultations.

¹⁴ This has been a sometimes barely disguised subtext of media debate where Aboriginal and development interests are opposed, although Merlan (1991a), commenting on Coronation Hill, has pointed out inconsistencies in the articulation of this dichotomy. 'Traditionalist' Aboriginal interests are often unquestioningly aligned with the forces opposing developmentalism, the so-called green-black-red alliance, with agency often attributed to politically-motivated 'contemporary' Aborigines or interfering whites. This latter dichotomisation of Aboriginality condemns it on the one hand as anachronistic and on the other as politically contrived (see also James 1993:218-9)

development.

5.4. Cultural tourism: consuming Indigenous 'heritage'

Heritage tourism

The past few decades have seen exponential growth in the tourist industry and most particularly the popularity and commercial significance of heritage tourism. As a result, tourism promotion has come to assume a central role in heritage policy, 'so much so', comments Bennett (1985:11) 'that, whereas it had initially been envisaged that the past was to be preserved *from* development, it is now typically preserved *for* it' (original emphasis). In Australia, Aboriginal cultural heritage has figured prominently in these trends, becoming a key element of tourist promotion, particularly in areas such as the Northern Territory which has two Aboriginal-owned national parks of World Heritage status - Kakadu and Uluru-Kata Juta.

Elsewhere in the Northern Territory the value of Aboriginal culture as a tourist drawcard is well recognised and often cynically exploited (for an example, see the following subsection). After all, most foreign tourists know very little about Aboriginal culture but are keenly interested to learn about and be exposed to it.

Commercial exploitation of Indigenous culture

At Timber Creek, the modest but steady stream of tourists over the dry season is an important source of income for the town. One of the most successful tourist ventures in

tapping this source to date has been Max's Tours.¹⁵ With a keen sense of what is attractive to overseas and interstate tourists, Max's tour includes a significant component of Aboriginal cultural elements - Dreaming stories, didgeridus, fire-making etc. Paradoxically, the local Aboriginal community is offered no part or share in the presentation and marketing of its culture to tourists. Max makes and sells his own didgeridus (having learnt from Aboriginal people during his earlier involvement with a tourist enterprise elsewhere), going out to cut the trees without consulting with local people. The Aboriginal Dreamtime stories he tells the tourists while travelling along the Victoria River are made up, having been adapted from stories he heard relating to country many hundreds of kilometres away. He stops at a small island in the river which is also a sacred site - again without having sought the permission of its Aboriginal custodians.¹⁶ There he plays the didgeridu, lights a fire with firesticks (a skill he also learnt from Aboriginal people elsewhere) and boils a billy.

Local Aboriginal people have expressed frustration and anger at the exploitation of their culture and sites without their consent. They have seen where Max cuts trees for didgeridus and has left the rejects scattered on the ground. They are also offended and alarmed that he is telling Dreaming stories about their traditional country without authority or consent.¹⁷

The impacts of heritage representations on Indigenous cultures

Max's approach is undoubtedly exploitative of both Aboriginal culture in general as well as local cultural amenities of the land. However, what is often not considered are the

¹⁵ An account of Max's Tour can be found in Rose 1997.

¹⁶ Custodians of the island eventually requested a meeting with Max to discuss his unauthorised use of the island. See Case Study 2 in Chapter 10 below.

¹⁷ Field notes of the author.

impacts on Indigenous cultures of the representations and stereotypes which are presented to tourist audiences, many of whom are Australians lacking in any direct or significant knowledge of such matters. Here, my previous comments on Max's Tour benefit from a recent paper based on the contents of the tour itself by Deborah Rose.

Rose (1997) notes that Max presents himself in the tour as one of a tradition of outback bushmen who understands Aboriginal culture and bush skills. Rose observes:

Knowledge of Aborigines and competence at skills which are generally defined as Aboriginal are crucial to the definition of the bushman. He can be thoroughly competent at both black and white skills without losing his white identity and status and is thus forever superior to the black, who can never be fully competent in both worlds (Rose 1997:129).

A subtext of Max's spiel is 'the question of whether white Australians can authentically belong to the country' (1997:129). This is not simply for the benefit of tourists but is also an issue close to the bone for whites living in remote areas such as the VRD. According to Rose:

The bushman who can live like a black in a black man's country needs blacks for two purposes which, taken together, form the paradox of settler identity. First, the black man verifies the white man's authenticity, thus establishing continuity. Second, the black man remains subordinate to the white man's superiority, and thus does not threaten the boundary between them (1997:129).

Max establishes authenticity in a number of ways. Firstly through stories about historical figures such as Bluey Buchanan, who was one of the first to overland cattle from Queensland to stock the VRD. For instance, in Max's story about Bluey he has an old Aboriginal stockman saying of Bluey: 'Him know all this country. Him belong this country' (1997:128). Secondly, through the fake Dreaming stories he tells about the country during the tour (suggesting he has been told these by local Aborigines). Thirdly, through the Aboriginal bush skills and 'expert' knowledge of Aboriginal culture he demonstrates. Rose also notes how Max establishes the white man's superiority, in

particular, through the story of how he obtained his didjeridu. According to Max, it was made by a world-renowned didjeridu player who was occasionally a guest artist at the tourist corroborees Max used to run in Katherine, to the east of Timber Creek. On the night in question the didjeridu player was 'drunk, dirty, swearing, spitting all over customers'. When Max went over to 'hunt him' away he said: 'Want this didjeridu boss? I want to sell him and get more grog' (1997:130). Rose notes that in the example 'we hear the familiar story of the gifted native who cannot handle civilisation and ends up destroyed by it' (1997:131).

Rose summarises the message Max presents to tourists about the nature of black/white relations:

According to Max's logic, Aboriginal men controlled the status of belonging to the continent and conferred this status on white (male) bushmen of high achievement. The status of Indigenous (male) authenticity passed to white (male) bushmen as an act of respect; the presence of white bushmen was never, in Max's spiel, connected to the demise of Aboriginal people (1997:136-7).

Rose shows us in the example of Max's Tour, the political and ideological implications of heritage tourism for local Indigenous cultures. It is not simply appropriative of Indigenous culture, but also transformative in the reinterpretation of intercultural relations which it presents. And, of course, the irony of Max's reconstructed frontier landscape is that it references a coexistent Aboriginal cultural landscape which is not only imaginary but which also carefully conceals its lack of cultural authority and authenticity. In Max's spiel and in his actions we see a snap-shot of the conditions of the unequal coexistence which this thesis seeks to document.

In addition to direct commentaries, such as Max's, heritage tourism also impacts on Indigenous cultures through its representations of Indigenous culture in promotional copy, heritage displays and heritage sites. In popular and commercialised contexts,

'heritage-isation' involves the abstraction of 'traditional' aspects of Aboriginal cultures as fragments or snapshots of Aboriginal 'cultural heritage', forming a pastiche of cultural caricatures devoid of any sense of the social and cultural processes behind the images, texts and sound-bites. These fragmentary abstractions increasingly become the markers of a taken-for-granted 'reality' that displaces alternative views, particularly those of marginalised Aboriginal communities themselves. In this regard 'heritage-isation' is an essentialising process, utilising and at the same time strengthening, the dominant, dualist stereotypes of 'Aboriginality' based on 'traditional' versus 'contemporary' dichotomies.

5.5. Authenticating and distancing Indigenous cultures

An underlying ambiguity exists in the essentialisms of 'traditionalist' views of Aboriginal cultures and their role in 'the neocolonial search for the 'authentic' in things Aboriginal' (Langton 1996:11). The 'noble savage' is at once an object of search and re-invention in the present as well as a construct which precludes the authenticity of 'the modern Aborigine' (the 'degenerate native'). The heritage of the former is to be protected and elevated as a national (tourism) emblem while that of the latter must run the gauntlet of populist racial discourse concerning, variously, the alcohol and welfare dependence, violence, or use of modern technology of its custodians. This is illustrative of a complex, deeply embedded racism within 'white Australia'¹⁸. Within the formal bounds of the heritage bureaucracy, it is 'scientific' disciplines such as archaeology, anthropology and history which hold privileged positions in authenticating forms of

¹⁸ Unfortunately, the complex issue of racism is beyond the scope of this chapter, but useful discussions can be found in, for example, Cowlshaw 1988, 1990, 1993, Edmunds 1989, Langton 1993, Markus 1994, Morris 1989, 1990.

Aboriginality¹⁹. Above all, authentications of whatever kind involve acts of exclusion, domination and control in relation to which heritage now occupies a central place in defining and mediating 'traditional' aspects of Aboriginal cultures.

The examples illustrate one of the more subtle but none-the-less pervasive effects of such representations: the temporal distancing of Aboriginal culture from the present. In locating Aboriginal heritage in the past it is assumed to be separate from the modern world (but fortunately accessible for experience in the packaged context of a tour). Notwithstanding an element of nostalgia for valued things lost, which is apparent in idealisations of both Aboriginal and non-Indigenous heritages, the march of progress is inevitably seen to propel 'modern' (Western) culture forwards while 'traditional' (Aboriginal) culture is seen to progressively deteriorate and dissipate in its wake.

Temporal distancing relies on spatial and textual devices to convey a sense of separation. Textual devices are commonly employed in cultural representations in academic disciplines such as ethnography (eg, Fabian 1983; Clifford & Marcus 1986) and geography (eg, Duncan 1993). Their use may serve a number of arguably dubious ends, for example, to establish the researcher's authority within a text; to place different cultures on an evolutionary or developmental time scale; or to compress and therefore efface a cumulative history of repressive practice.

Such 'methodological abuses of time' (Fabian 1983:61) are clearly part of a much wider and more pervasive problem concerning the question of whether there can be a true representation of anything in that all representations 'are embedded first in the

¹⁹ While there is sometimes vigorous disagreement within and amongst such disciplines (see for example, Weiner 1995, Brunton 1996), Lattas sees in 'the discourses of white intellectuals' in Australian Aboriginal studies, a 'conceptual structure invested with power relations' that is 'part of the continuing cultural domination of people' (Lattas 1993). Examples of more general critiques, particularly of anthropology and history, can be found in Diamond 1974, Fabian 1983, Young 1990.

language and then in the culture, institutions, and political ambience of the representer' (Said quoted in Young 1990:138). The social construction of language subverts the possibility of it being a transparent medium for representation. Representations as language texts, in employing devices such as temporal distancing, distort the subject (whether it be the nature of past social relations or other cultures) by connecting the reader to an implicit, underlying set of power relations and conceptual understandings. Distortion is also an unavoidable effect of the process of representing an immensely complex subject, such as Aboriginal culture, within a limited and purpose-oriented heritage framework, whether it be a museum display or a tourist promotion video. Any resulting representation will necessarily be incomplete, stylised and populist, shaped according to the desired impact on a target audience. The danger here is that, in presenting heritage representations as the 'truth' or as 'real' or 'authentic' culture, viewers' subsequent experiences of contemporary Aboriginal society, for instance, on the streets in Katherine or Timber Creek, are inevitably found wanting.

5.6. Heritage and control of the physical and social landscapes

Containing heritage, de-politicising the social landscape, and reinforcing the status quo

These effects of 'heritage-isation' operate not only with respect to Aboriginal culture, but also with respect to other aspects of identified 'heritage'. They reflect a role of heritage within increasingly commodified and commercialised societies, in evoking a sense of containment and control. Heritage appears to be neatly in the past, separated from the everyday; it is implicitly fragmentary, and so spatially contained within heritage sites and artefacts; and finally, it is politically and socially contained, both within the

discourse of heritage, and, more significantly, within specific legislative and administrative frameworks which demarcate and control the objects and sites of authenticated heritage.

To social and cultural groups on the margins of the mainstream, the heritage paradigm is an integral part of the process of constructing an 'other' against which mainstream values and power structures appear as natural and rational progressions. A heritage perspective of a marginalised 'other' group immediately distances it, invoking a set of 'historically established relations of power and domination' (Fabian 1983:28) within a medium which is thoroughly legitimised and largely de-politicised. Even apparently benign aspects of the heritage paradigm, such as the terminology and practice of 'consultation', serves to put an ideologically sound gloss on what is fundamentally a process based on an unequal power relationship (Ellis 1994b) between the consultant and consultee (see also Chapter 11). In many circumstances this is as far as Aboriginal involvement in the protection and use of their heritage is taken.

Heritage's potential for limiting the terms of political debate about cultural values of the landscapes can be measured by the degree to which it supports a mixed ideological baggage within the single framework of heritage. Widely-differing views find simultaneous expression and support within the heritage paradigm, ranging from positive views, such as those supportive of the need to respect and protect the integrity and independence of Aboriginal cultures; to more negative perspectives which contrast so-called 'primitive' or 'traditional' aspects of Aboriginal 'heritage' with a superior modernity. The former carries an implicit criticism of mainstream culture while the latter sees its values reinforced. The connotation of 'heritage' as something which is outmoded and in need of protection to survive appears to provide a less politically charged metaphor for 'evolutionist' views of Aboriginal culture. Significantly, opposing views produce the identical effect of containing Aboriginal issues within the heritage

paradigm.

Socio-political construction of heritage boundaries

Discussion of containment and control leads us naturally to the question of 'boundaries', and, in particular, the boundaries heritage establishes between itself and non-heritage. My aim here is to highlight the ways in which the conceptual and physical boundaries of heritage are constituted as social, political and administrative constructs, rather than as demarcations of real physical or intellectual entities.

We can discern such processes in action in the many historical and political contexts in which the nexus between Indigenous cultures and heritage has been constructed. As suggested earlier, national perspectives, supported by professional academic interests such as those of archaeology and anthropology, have provided crucial arenas for binding Indigenous cultures to the national framework. It is also true that those supportive of Indigenous cultural interests have found in the concept of heritage a powerful argument for securing mainstream recognition and protection which might otherwise have proved unattainable. Incorporating Indigenous issues into the heritage policy framework has also been seen by some as strategically advantageous in strengthening the case for heritage funding and in extending its political salience (see for example, Davison & McConville 1991:24-5). Such strategies have received considerable impetus from international developments in natural and cultural heritage protection, particularly ICOMOS²⁰ and the World Heritage Convention. More recently, the increasing international recognition of cultural rights of Indigenous peoples is now

²⁰ International Convention on Monuments and Sites (ICOMOS). For example, ICOMOS provided the focus for a national conference on the preservation of Australian Aboriginal heritage which was held in Canberra in 1972 (Edwards 1975). This conference was pivotal in providing the foundations for subsequent Indigenous heritage policy in Australia. See also Sullivan 1983 for a discussion of Aboriginal sites and ICOMOS guidelines.

focusing attention on the broader cultural practices and values associated with Indigenous heritage which, as I have noted, have been largely overlooked in conventional heritage practice.²¹

More recently, changes to the conceptual boundaries of heritage with respect to Indigenous cultural interests have been achieved in part through critical analyses of existing Australian heritage programs. For example, recent critiques of cultural heritage management have highlighted issues such as cultural imperialism in heritage practice (Sullivan 1993); the lack of critical and pluralistic definition (Russell 1993); and problems of archaeological discourse and Indigenous significance (Ellis 1994b, Greer & Henry 1996). Such critiques attempt to redefine heritage by questioning its reflection of hegemonic values and by extending its conceptual boundaries in areas of social and cultural relevance. In these ways we are witnessing a shift in heritage policy towards the kinds of values and expectations often articulated by Indigenous Australians.

5.7. The subversive cultural landscape

Heritage and the cultural landscape

This process of extending the conceptual boundaries of heritage has been underpinned by theoretical innovations in cultural heritage management, the most important of which has been the adoption of the concept of the 'cultural landscape'. Borrowed from cultural geography, the cultural landscape is a characteristically slippery term, formulated in a recent national cultural heritage publication as 'a fabric or

²¹ See for example, Remarks by Secretary of State Madeleine K. Albright before the State Department's Fourth Annual Meeting with American Indians and Alaska Natives, Native Hawaiians and Other Indigenous Americans (U.S. Department of State, Office of the Spokesman, 14 July 1999).

network of meanings of which particular places are an integral part, and from which they cannot be extracted, or treated in isolation, without losing their meaning....They are 'in use' every day, and form part of everyday cultural experience' (Sullivan 1995:2). In this view the cultural landscape seeks to identify and incorporate social and cultural processes which provide dynamic, reflexive connections between heritage and cultural experience.

Maintaining a balance between heritage and the 'everyday'

There are, however, limits to the process from Western perspectives, in that defining and delimiting the boundaries between heritage and non-heritage, between heritage and the 'everyday' provides the concept of heritage with a definable identity and force. The central issue here is not the problem of defining heritage amidst a diversity of opinion, but rather one of protecting the socially constructive (ideological) role heritage plays in maintaining a sense of social or national cohesion. An effect of extending and blurring the conceptual boundaries of heritage is to threaten the sense of containment which conventional notions of heritage evoke. This raises the spectre of increased community unease and conflict regarding the extent to which 'heritage concerns' may impact on the everyday exigencies of development, land ownership rights, employment, etc. Such conflict is central to the most significant public controversies contested over development and heritage protection policy; forests, endangered species, mining in national parks, the built environment, etc. In view of this dilemma, governments have sought to link and counter-balance heritage and development approvals processes. The notion of a balance between the two is often central to governments' articulation of policy in these areas.²²

²² For instance, the Northern Territory *Sacred Sites Act 1989* states in its preamble the act's purpose 'to effect a practical balance between the recognized need to preserve and enhance

Re-uniting past and present

From another perspective the cultural landscape can be seen as an attempt to redefine the relationship between the past and the present in a manner which is more akin to that of Aboriginal culture. Thus, heritage's adoption of the cultural landscape seeks an integration of the past with the present, offering a conceptual framework designed to overlies and resonate with the actual landscape and also, therefore, with past and possible future landscapes. In other words, to move beyond a static artefactual view of heritage and engage with the processes of socio-cultural reconstitution and change. From an Indigenous viewpoint an integration of the past and the present is an unproblematic given. The present (and future) landscapes are immutably products of the past - a heritage perhaps more in its original sense of familial inheritance - handed down from the first ancestors and comprising a taken-for-granted base from which one's life and livelihood must be constructed.

Challenging developmentalism

From this perspective the cultural landscape and Indigenous views of heritage coincide in their challenge to the dominant Western paradigms of progress and development. Heritage is increasingly invoked in the debate over present needs and future directions, dominated by the tensions between developmentalism and conservation. As a locus of contestation, the introduction of the cultural landscape to heritage theory and administration can be interpreted as challenging conventional notions, not simply of its

Aboriginal cultural tradition in relation to certain land in the Territory and the aspirations of the Aboriginal and all other peoples of the Territory for their economic, cultural and social advancement...'.
An Unequal Coexistence 137

conceptual boundaries, but also of the resulting physical boundaries which are increasingly the focus of public policy decision-making (Mulvaney 1997).

5.8. Indigenous experience and heritage

Conflict with Euro-Australian land tenure and land administration

Against this background, a very different set of issues is raised by the experiences of Aboriginal people themselves, particularly in rural and remote areas of Australia such as the Victoria River District. A central issue, shared with Indigenous groups throughout Australia, is that Aboriginal perspectives do not neatly coincide with the perspectives of the heritage paradigm. Such differences are most apparent in the conflict between Aboriginal concepts of 'heritage' as representing 'title deeds' or proof of ownership and responsibility for land, and the subordinated, tangential role heritage has in relation to Euro-Australian concepts of land tenure. This means that Aboriginal 'heritage' issues are continually constituted in opposition to Euro-Australian land tenure and land administration.

Aboriginal people in the VRD²³ see no sharp separation between the cultural and natural environments and consequently, cannot conceive of land in isolation from culture. Moreover, their rights and responsibilities to land pertain to specific inherited 'countries'²⁴ or 'estates' which provide the foundation of a person's cultural and social

²³ The areas described in this chapter are mainly associated with Ngarinman and Ngaliwurrungali language-owning groups. General descriptions of the contemporary cultural organisation of these groups can be found in Rose 1991 or in various land claim materials, such as NLC 1992.

²⁴ Sutton (1995) has formalised use of this term in relation to Aboriginal land ownership.

identity.²⁵ These rights and responsibilities are not transferable in the manner that Euro-Australian land law recognises and relies upon. Usually, at least in remote pastoral lands I am familiar with, the primary concerns of customary landowners are cultural issues such as access to the land for cultural purposes, acquisition of ownership and native title rights where possible, and the protection of areas of cultural significance (see also CLC 1996). Even desires for the establishment of cattle herds appears to be focused towards providing for community needs - increased self-sufficiency and the provision of meaningful work for young unemployed people - rather than as a strictly commercial enterprise.

The heritage paradigm essentially only recognises cultural sites (particularly sacred sites) and objects as the appropriate items of heritage protection, yet even here, the full cultural significance of such sites and objects, particularly with respect to their role in regulating and maintaining Indigenous ownership, responsibility and use of country, is often barely acknowledged.

Impacts of Euro-Australian land tenure and land use

Such a cultural focus finds little comfort in Euro-Australian land tenure or in its boundaries, which haphazardly dissect Aboriginal cultural estates. For instance, Aboriginal people may typically find their traditional estates enclosed within a pastoral lease or perhaps divided between adjoining leases. They may have found a portion of them taken over for a town or settlement, or traversed by a highway or other road corridor. Alternatively, their country may have been acquired for a national park, or

²⁵ Aboriginal people in the VRD are typically associated with more than one 'country', traced through their grandparents. The most significant land relationships are those traced through one's father's father (*kakung*) or mother's father (*jawajing*). Attachments to country also arise in other ways, such as in relation to one's place of conception or birth (see Rose 1992).

some other 'public purpose'. Most lands are also subject at least to mineral exploration leases of some kind. If they were lucky, part of their traditional estates may have been available for claim under land rights legislation.²⁶

Each of these possibilities raises a further set of issues concerning what has occurred or may potentially occur on their land as a result of its appropriation or use. The coincidence of the spiritual or economic importance to Aboriginal groups of particular areas and their attractiveness to non-Indigenous occupation and use is very high. For instance, without exception, station homesteads in the vicinity of Timber Creek, together with a considerable amount of pastoral infrastructure (fences, yards, bores, etc.), have been established on sites of cultural significance. The town of Timber Creek itself is established around a cluster of important cultural sites; sacred waterholes, rocks and trees on the margins of or enclosed within freehold blocks. At one point a concrete weir has been built across the creek at the end of an important waterhole. Another important waterhole sports a suspension bridge built for tourists. Local Aboriginal people have been actively discouraged from fishing in this waterhole and nearby a 'no fishing' sign is nailed to the trunk of a sacred tree. Sacred boulders at the old Main Roads yard are now missing, no one knows where. The track to a popular fishing spot ran (until recently) right over the top of a now disused but still significant men's ceremony ground. Even the town's water supply comes from tanks dug into the side of a hill associated with an important local Dreaming. There are many other examples in the town and in the surrounding area.

²⁶ While approximately 42% of the Northern Territory is currently Aboriginal land (much of this having been claimed under the Aboriginal *Land Rights Act* (NT) 1976, the figure is somewhat deceptive. Most of this area comprises semi-arid desert lands or former reserves such as Arnhem Land, much of which is regarded as uneconomic for commercial land uses. Pastoral leases (covering approximately 52% of the Territory) are not available for claim under the *Land Rights Act* unless they have been purchased by Aboriginal communities. In many areas little or no land has been available for claim, leaving many groups alienated from their traditional lands. Of course, in other parts of Australia, access to land for claim or purchase is considerably less than in the Northern Territory. It is estimated that nationally, Native Title and land rights legislation has the potential to benefit only 5% of Indigenous Australians (Sultan et al, 1996).

The Victoria Highway, which runs through Timber Creek, reveals a similar story. Periodically it intersects with Dreaming tracks: *Kamuyu*, the whirly wind; *Yunumpulku*, the plains kangaroo; *Jalik*, the children; the dangerous *Wulkuru* spirits; *Wirrip*, the dingo (twice); *Kudarrk*, the brolga; *Jirrikik*, the owlet nightjar; *Janyima*, the grasshopper; *Walujapi*, the black-headed python; *Warrpa*, the flying fox - all these within a 120 kilometre stretch of the highway.²⁷ Over this distance the highway has managed to pass straight through a number of sacred sites, with devastating effects. At one place a small limestone sinkhole where an important ancestral-being camped was buried during highway upgrading works; at another site a huge sacred Boab tree within the alignment of a bridge approach was bulldozed, and the highway cut through a ridge of shale left by an important ancestral-being. Dotted along the margins of the highway are sacred trees which narrowly escaped a similar fate, remaining perched precariously on the edges of table drains and cuttings. Some of these have been graffitied by passing motorists. And then there are the multitude of areas where sand and gravel have been, and continue to be, mined for construction and maintenance of the road over the years. A number of such areas have been located in culturally significant areas.

Fear of white reaction

The incidents I have just described all date from about the 1970s to the present, yet most were (apparently) never raised at the time by Aboriginal custodians, fearful of adverse reaction or ridicule. One Aboriginal response to co-existing with whites has been to quarantine traditional culture, hoping to protect sites from damage through

²⁷ This information and subsequent examples are known to me through my work in the area with Aboriginal custodians.

secrecy²⁸. A senior Ngarinman man described this strategy to me in the following terms:

*Aboriginal people kept that thing secret all the time - didn't say him nothing...because they bin [were] too frightened something might happen later on, see? They was too frightened for white people.*²⁹

Within the context of local European ignorance of and disinterest in Aboriginal culture³⁰, the price of such secrecy and fear³¹ was the kinds of damage to sites I have just outlined. One way local Aboriginal people describe this phenomenon is by saying that whites are 'like a blind man' blundering and flailing about in the landscape - ignorant of where he is and of what he might be damaging. The extent of this ignorance was starkly demonstrated to me by a man who had managed a pastoral lease for approximately thirty years up till the early 1980s, working closely with local Aboriginal people. When I asked him if he had been told about or knew of any sacred sites on the pastoral lease I was surprised to discover that he could not with certainty identify a single one.³²

Ignorance of Indigenous cultures

For people such as this (ie, the majority of the local non-Aboriginal population who swap stories of their experiences), the passing of Aboriginal heritage protection legislation in the late 1970s challenged the basis of their presumed knowledge of (and

²⁸ Edmunds makes the point that denying knowledge to Europeans also 'meant that a central part of Aboriginal life remained independent of European interference or control' (Edmunds 1989:30).

²⁹ Interview with Laurie Roberts, 1995.

³⁰ cf Edmunds 1989:31.

³¹ For a background to the history of fear and violence in the VRD see Rose 1991.

³² Personal communication, 1995. Currently the Aboriginal Areas Protection Authority has over 100 sacred sites recorded or registered on this pastoral lease alone.

hegemony over) local Aboriginal cultures³³. The increasing number of sacred sites which have been recorded and registered under the *Sacred Sites Act* has served to highlight the extent of their ignorance, but rather than promoting understanding, it has been perceived as threatening, often resulting in disbelief and assertions of invention by younger (ie less 'traditional') Aboriginal custodians or of interference by outsiders with 'political' motives³⁴. Such views found apparent confirmation in the hearing of land claims under related Commonwealth land rights legislation for the Northern Territory³⁵, a central feature of which has been the documentation of sacred sites and the demonstration of primary spiritual responsibility for such areas. There have now been a number of successful claims in the Timber Creek area.

A problem here is that the two issues, sacred sites and land rights, though conceptually different, have tended to be conflated, leading to what can best be described as a siege-like mentality of reaction. For instance, in the recent past a number of Timber Creek residents erected picnic facilities for tourists in an area of traditional significance without consulting Aboriginal custodians. As the picnic facilities were carefully located just outside the boundary of adjacent Aboriginal-owned land, the failure to consult with custodians of the area could not have been more pointed. At the time a prominent local white landowner, in rejecting a suggestion that there was a need to check if the area contained significant sites, justified their action by stating that 'they've got too much land already' - a reference to the lands successfully claimed by

³³ cf Edmunds 1989:31.

³⁴ I have experienced many times the suspicion and hostility of local whites towards my role in recording sacred site concerns. Some residents claim privileged knowledge from their earlier experiences with existing or deceased Aboriginal people against the 'claims' of the present custodians. This is usually along the lines of 'so-and-so never expressed any concern about the area in the past'.

³⁵ *Aboriginal Land Rights Act* (NT), 1976. Merlan gives a good account of the reaction of local whites to the land claim process for areas near the town of Katherine, 300km to the east (Merlan 1995).

Aboriginal groups in the area.³⁶

Problematic relations

In this environment it is little wonder then, that the responses of Aboriginal people to heritage issues in remote areas such as the VRD address more fundamental aspects of their problematic relationships with non-Aboriginal people. One local Aboriginal man told me:

*We like to try tell whitefella to understand too, you know, because....our old people...they didn't have a right to say nothing, see. Now we got a right we can sort of stop somebody - to try to listen...accept that word, or, you know, we just trying. But, about time they sort of listen to us.*³⁷

From another:

*All this sort of thing [rights to protect sacred sites] we didn't know before...now we know how to protect our sites because we can tell him [Europeans] anything and he might listen to us.*³⁸

A telling aspect of these two statements is the qualified way in which the newly-acquired 'rights' are spoken of: they can now 'try' to make white people understand but the prospect is only that they 'might listen'. The tentativeness of such statements is indicative of the unequal power relationships which continue to exist between Aboriginal and non-Indigenous people in the area.

³⁶ Pers comm. Previously, a locked gate on the track to the area, installed to prevent public access because of its cultural significance, had repeatedly been torn from its hinges and thrown aside by white residents.

³⁷ Interview with Laurie Roberts, 1995.

³⁸ Interview with Jerry Jones, 1995.

5.9. Race relations, heritage and 'special needs': the big picture emerges

These unequal power relations are maintained amidst a continuing ignorance of Aboriginal social conditions and cultural interests, and a refusal to acknowledge the extent to which contemporary race relations derive from Australia's colonial past. These failures of communication underpin the current unfavourable climate towards reconciliation, and stand out as key issues which cannot be left unaddressed³⁹. In the absence of improved cross-cultural understanding and trust, native title and heritage protection controversies are simply seen by many non-Indigenous Australians as evidence of an unreasonable widening of demands for the special recognition of Aboriginal interests against the rights of 'ordinary' Australians.⁴⁰ The demands were unproblematic when they simply involved the recognition of basic rights of equality - citizenship rights, equal pay and 'a fair go' - however, attitudes have become progressively more uneasy as the issues have widened to include such things as sovereignty, native title and other special rights in land; issues which are seen to

³⁹ Tatz (1999:41-43) points out that the Howard Government's sustained criticism of the so-called 'black armband' view of Australia's past treatment of Indigenous people, stands in stark contrast to its condemnation of the racism of Pauline Hanson's 'One Nation' party.

⁴⁰ Such sentiment is common amongst sections of the Australian community and the Australian media. Take, for example, the editorials of the national daily newspaper, the *Daily Telegraph*, over a two week period in 1998. On March 24 the *Daily Telegraph's* editorial criticised the failure of the ACT Director of Public Prosecutions to prosecute members of the Aboriginal Tent Embassy in Canberra for maintaining 'what they call a sacred fire' during a total fire ban: 'It is forging in the mind of the community that there are two laws in operation - one for Aboriginal Australians and another for non-Aboriginal Australians'. On April 2 the paper's editorial branded the High Court's decision to uphold Commonwealth legislation allowing the building of the Hindmarsh Island bridge despite Aboriginal heritage concerns as 'a win for progress ... a sign that economic growth can eventually prevail over the fixation some groups have with bans based on heritage laws and political motives'. On April 3 the paper's editorial focused on an apparently lenient sentence of community service given to an Aboriginal man found guilty of malicious wounding: 'The biggest obstacle to cordial relations between black and white Australians is the widely held suspicion that black Australians are officially accorded preferential treatment'. On April 8 the editorial urged the Senate to 'strike down' the right to negotiate (RTN) provisions of the Commonwealth *Native Title Act*. Claiming that the RTN 'has nothing to do with native title and everything to do with hard cash' the editorial opined: 'Laws that elevate certain members of the community and give them special rights have no place in Australia'.

challenge the accepted legitimacy of European 'settlement' of Australia, and as extending rights which are not available to other Australians⁴¹ (cf Merlan 1995, Morris 1990).

Related to such issues are concerns about the authenticity of Indigenous 'claims',⁴² particularly in light of the traditional ('noble savage') / contemporary ('degenerate native') dichotomies which pervade Euro-Australian attitudes. This has resulted in calls for heritage processes to take a more active role in weeding out illegitimate Indigenous claims.

These wider terms are illustrative of the ambiguous relationship between Aboriginal cultures and the heritage paradigm⁴³. Legally, of course, the High Court's recognition of the extinguishment of native title over much of Australia, particularly on freehold land, means that heritage protection legislation extends the coverage of important cultural rights to areas where native title is no longer officially deemed to exist⁴⁴. Such rights can be better understood as contingent 'gifts'⁴⁵, vulnerable to removal or dilution through amendment by the legislature. Surviving native title rights under common law

⁴¹ Such unease has been exploited politically, for instance by Pauline Hanson's One Nation Party which captured nearly a million votes in the 1998 Federal election (see 'How Hanson became a hero of the poor', *The Age*, 26 October 1998). On 5 December 1997, amidst speculation about a 'race election' over the Howard Government's Wik amendments, Pauline Hanson issued a press release which stated: 'Native Title is about to explode in rural Australia – perhaps when that happens the government will see the folly of special treatment and race related policies'.

⁴² The use of the word 'claim' in Euro-Australian discourse about Indigenous issues is itself illustrative of such concerns. Thus, critical whites often stress the word or use it in isolation in such a way as to suggest its alternative meaning as 'something which is asserted but not proven'.

⁴³ It has been suggested (somewhat rhetorically) elsewhere that 'cultural heritage matters should come within the ambit of native title rights' (Harris 1996:31).

⁴⁴ For instance, the *Sacred Sites Act* extends protection and rights of access to sacred sites on all land within the Northern Territory, including freehold land (see also Chapter 9). Recently, the Federal Government, in amending the *Native Title Act* in 1998, rejected specific provision for Indigenous heritage issues, arguing that separate Indigenous heritage legislation already existed.

⁴⁵ This point was raised at the AAS/AIATSIS Native Title Workshop, Australian National University, 14 Feb 1996.

are similarly vulnerable to impairment or extinguishment. Moreover, in being acknowledged to apply to only limited areas of the continent, we are still as a nation faced with the challenge of extending the moral basis of the High Court's findings to recognise the social justice and cultural rights of those who would otherwise receive no tangible benefit (eg see Pearson, 1993).

Yet, from the perspective of Aboriginal custodians, the benefits of heritage protection (as a substitute for extinguished native title rights) could be regarded as limited. Heritage protection legislation, for example, may physically protect a site but not the cultural practices or the wider cultural landscape on which its meaning and existence depends. In my experience in the Northern Territory, such failures often have less to do with the lack of adequate legal and administrative provisions⁴⁶ than with the inhibitory effects of manifestly unequal, historically-mediated power relations faced by Aboriginal people. This is why the actions of some white Timber Creek residents, in preventing local Aboriginal people from exercising their legal and cultural rights to access and use sacred sites and to protect them from inappropriate use or damage, continue to be successful.

Heritage protection legislation has failed to provide a secure enough basis for Aboriginal custodians to challenge the local power relations to which they are subject in the normal course of their lives. Heritage bodies have inserted themselves in a mediating role between custodians and non-Indigenous landowners, mostly without the coercive power, resources or will to properly case manage the needs and expectations

⁴⁶ I am not arguing here against strong, inclusive legislative provisions, or, as Harris (1996) has identified, the need for Indigenous involvement in the 'drafting and implementation' of heritage legislation, but rather that the effectiveness of these measures is subverted by structural problems, such as power relations and racism, which are yet to be seriously addressed. My intention is to make the point that appropriate heritage legislation is only a first step. The fact that the Northern Territory legislation is regarded as 'best practice' in Australia (Evatt 1996) reinforces this conclusion.

of both sides. And once a heritage officer has gone back home custodians find themselves without local support to deal with landowners. It is hardly surprising that the actions of custodians are more attuned to the potential reaction of landowners rather than to availing themselves further of the rights and powers which various pieces of heritage protection legislation might bestow on them.

The argument of a limited benefit provided by heritage legislation also extends to the broader perspective of cultural landscapes⁴⁷. For example, a limited and selective recognition of Aboriginal cultural values in World Heritage areas, such as Uluru - Kata Tjuta National Park (or, indeed, other protected landscapes), is suggested by the cultural meaninglessness of the park's boundaries which are based on those of pre-existing pastoral leases. On what basis are Aboriginal cultural values outside those boundaries any different from those privileged ones inside? What of the broader cultural landscape of which Uluru is part? What does such a level of protection inside the park mean if the wider cultural environment to which it is integrally linked is progressively weakened through lack of recognition and protection? Selective recognition such as that of fragmentary heritage listings neglects the reality that distinctive Aboriginal cultures span the continent, and that, in privileging selected groups or areas, the cultural values of others is made correspondingly invisible, or worse, dispensable.

To be more accurate, there is in Australia no non-Indigenous equivalent of land-based Indigenous cultures. The use of heritage mechanisms to secure specific customary rights to land, as in, for example, sacred sites legislation, applies exclusively to

⁴⁷ It is significant that the concept of the cultural landscape has been adopted by heritage practitioners and theorists as a means of extending the conceptual boundaries of heritage beyond static artefactual approaches towards a practice which recognises processes of socio-cultural reconstitution and change. Such a perspective more closely fits Indigenous relationships to land.

Indigenous interests. Such 'special needs' of Indigenous communities sit uncomfortably within a heritage paradigm that is aligned to the national and commercial interests and within which inherent limitations and prejudices serve to maintain a barrier between the identified objects of heritage and the wider cultural processes which sustain them. The fragmentary impulse of heritage carries with it the seeds of misconception and injustice; of the failure to recognise the real boundaries of culture amidst the grid patterns of appropriated lands.

5.10. Conclusion

In this chapter I have sought to illustrate the complex, multi-layered relationship between heritage and Indigenous cultures. In multiple ways, through the meanings attached to heritage, through heritage theory and through heritage practice, Indigenous cultures find themselves subordinated to Euro-Australian priorities and interests. It can be concluded that in denying Indigenous communities the means to define and control their own heritage, in failing to address the wider social environments on which Indigenous cultural interests ultimately depend, and in failing to acknowledge the compromised nature of Indigenous cultures within the heritage paradigm, the processes of marginalisation and dispossession can only be reinforced. Here we must note with some concern the emergence of perceptions in the Euro-Australian community of themselves as victims of Indigenous privilege.

The accuracy of such perceptions, however, is not borne out by the experiences of Aboriginal custodians in the VRD. Instead, Aboriginal perspectives direct us to a major challenge facing the achievement of a coexistence of interests – the nature of intercultural relations themselves.

The issues raised in the foregoing discussion of the relationship of Indigenous cultures to the heritage paradigm, encompass the major intersecting arenas of conflict between Indigenous and non-Indigenous Australia: power, past relations, cross-cultural communication, practices of consultation, legislative inadequacies, and the representation and evaluation of Indigenous issues. We have seen how these arenas of conflict become appropriated into heritage processes and perspectives, masking the profound extent of the confrontation which exists between the two cultures. The following chapters will focus on these arenas of conflict in more detail, suggesting how these represent fundamentals of the relationship between Indigenous and non-Indigenous Australia, rather than sectional or peripheral problems to be dealt with in relative isolation. It is only when such issues can be recognised as fundamentally linked that the underlying inadequacies of current policy approaches can be grasped and a clearer path towards reconciling the two sides can be glimpsed.

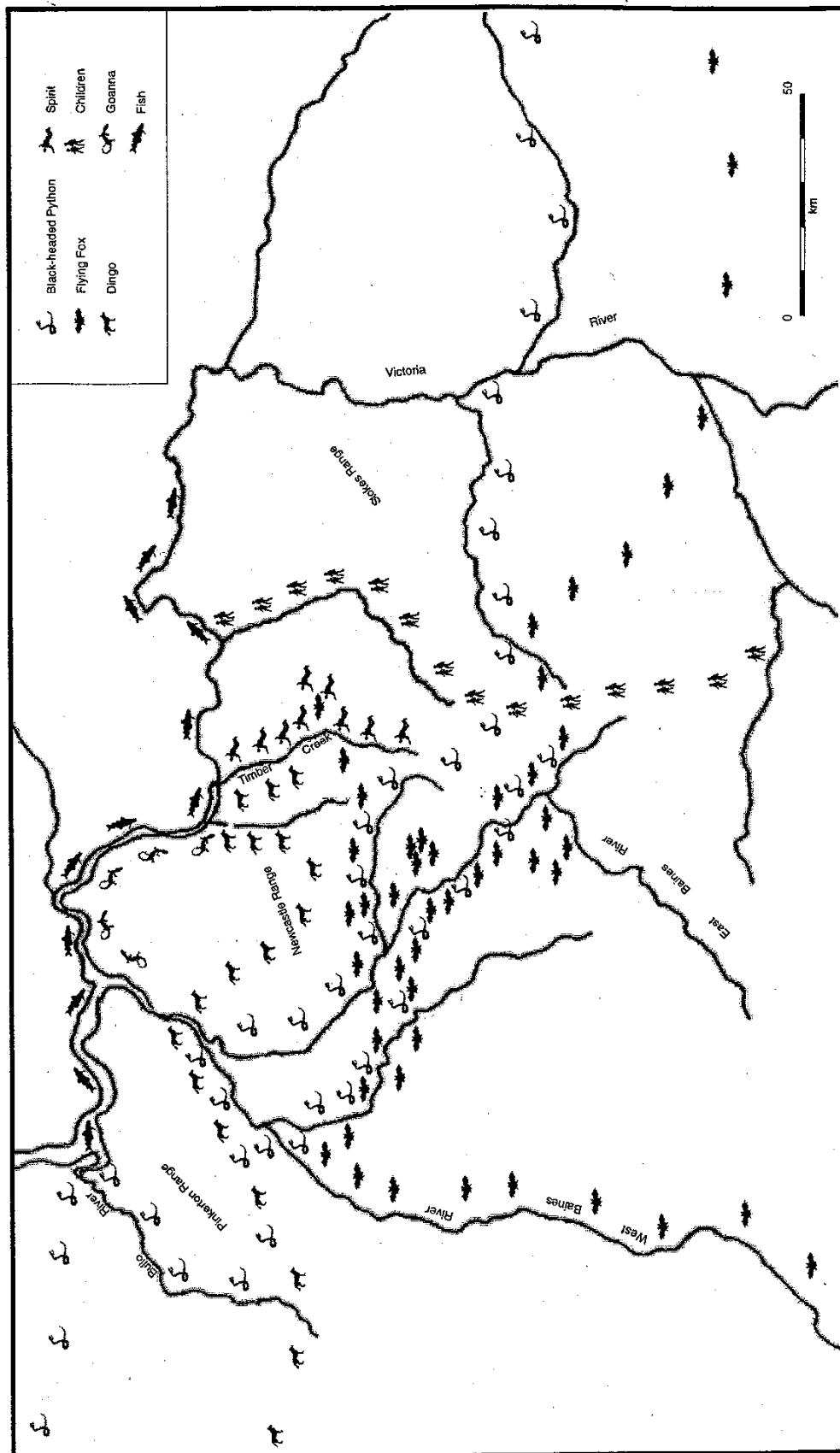


Figure 4: Schematic map showing the major Dreaming Tracks within the study area.

Plates 13- 15



- Plate 13:** 'Gregory's Tree' with protective man-proof fence erected by the Parks and Wildlife Commission.
- Plate 14:** Cairn and plaque on the Victoria Highway near 'Gregory's Tree'. For text of the plaque see p 114.
- Plate 15:** Tourist postcard depicting 'heritage' attractions of the study area. The man in the bottom right frame is Bobby Wititjpuru (see Chapter 7, p220).

PART 3:

THEORETICAL PERSPECTIVES ON

CROSS-CULTURAL RELATIONS

AND INTERACTION

CHAPTER 6: POWER AND CULTURAL DIFFERENCE: AN INTERACTIONAL PERSPECTIVE

...in refusing to live in their domestic domain the way Whites do, and by excluding Whites from participation in that domain, Aborigines have dulled the full impact of colonial forces which would otherwise become all encompassing and result in the homogenisation of Aboriginal people into Australian society.¹

6.1. Introduction

In Chapter 5 it was shown how Aboriginal approaches to 'heritage' issues in the 1990s seemed to foreground difficulties in relations between themselves and non-Indigenous landowners and land users as much as their own assertions of rights over areas and features of cultural significance. This chapter explores the underlying issues of this focus on intercultural relations and suggests that power has remained a central concern in the changing patterns of relations between the two groups since Europeans first arrived in the area. The chapter shows how Aboriginal responses in the 1990s go beyond an awareness of the sceptical attitudes of whites towards Aboriginal cultural beliefs and their criticisms of land rights, native title and sacred sites issues. Rather, such responses involve actions which specifically address power.

Implicated in and mediating power relations are cultural differences related to language, conceptual systems and relationships to land. In fact, power and cultural difference are so interconnected that it is almost impossible to analyse one without reference to the other. Specifically, power and cultural difference are mediated within the communicative processes of cross-cultural interactions. Put simply, both power and cultural difference affect what people say and do. But what is their relative influence?

¹ Trigger 1988:222.

For instance, to what extent might we ground non-confrontationist or acquiescent responses of Aboriginal people in culturally-based values of congeniality and consensus, as opposed to the power laden cross-cultural past and present? This chapter will show that the answer can only lie in attention to ethnographic detail – in a careful analysis of each and every interaction which is based on an understanding of the complex interactional variables which characterise cross-cultural relations.

Many of the variables of contemporary cross-cultural interaction are a product of the prior history of black/white relations. Inherent in past relations was a power structure within which the authority of whites was assured and which, at least in the post-WW2 period, was characterised more often by the threat or possibility of violence rather than its actual use. In this context, cross-cultural communication became increasingly important as a tool in mediating pastoral relations and achieving the strategic goals of both sides. Pastoral rationing relationships show us how power and cultural difference are transacted through cross-cultural communication processes. Such relations also show us that violence and coercion may underpin relations which appear on the surface to be collaborative and consenting. And they show us how Aboriginal people have continued to resist the incursions of Euro-Australian culture in non-confrontational ways. Communicative processes thus have a significant role in maintaining distance and misunderstanding as well as cooperation and transaction between the two groups and are therefore of particular concern to this study.

This chapter will examine these themes from two perspectives. I will begin by examining theoretical approaches to power relations during the pastoral era, with an emphasis on the relative significance of violence and coercion, as distinct from collaboration and consent. Such a discussion poses particular evidentiary difficulties associated with the recording of remembrances of the past. I then provide a broad review and discussion of theoretical approaches to the dynamics of cross-cultural

interaction, addressing in particular, the themes of power, cultural difference and strategic action.

6.2. Resistance and domination in pastoral relations

This thesis posits a structure of relations on pastoral stations which was often precariously balanced with respect to the interests of Aboriginal workers and their dependents. Cultural coexistence existed but only according to ground rules that had to be established between Aboriginal people and each new manager, head stockman and station 'missus'. I would argue, that for Aboriginal people this presented a number of strategic dilemmas:

- tension between securing and maintaining the patronage of whites on the one hand and dealing with the contingencies of potentially hostile or adverse reactions or treatment on the other;
- tension between accommodating the demands of a station existence, and of maintaining a separate, autonomous Indigenous domain.

For whites a different and less problematic set of strategic considerations existed:

- how to maintain authority over Aboriginal people and successfully secure their labour according to the needs of station work;
- how to minimise the costs of Aboriginal labour in an often economically marginal industry.

An initial task is to examine these tensions from the perspectives of current theory, firstly in relation to the question of power and secondly, in relation to the mechanisms which enable the structure to operate.

Foucault and the institution of pastoral rationing

The rationing relationship on pastoral leases can be likened to what Foucault (1983) terms a 'block' or 'discipline', in which the fields of productive activity, resources of communication and power relations are regulated within a given system. These three fields of action are not independent of each other but become 'welded' or articulated together according to the particular context (1983:218-9) – in the present case, that of the pastoral rationing relationship.

In the pastoral rationing relationship we can see ready evidence of the structures and elements which a Foucauldian analysis of power relations seeks to detail. Firstly, the pastoral regime exhibited *systems of differentiations*: the separated homestead and Aboriginal camp; the separate food/rations; and the linguistic and cultural differences which were accommodated and even encouraged to a degree by pastoralists. Of these, linguistic and cultural differences (maintained within an Aboriginal domain) also constituted a point of limitation to the exercise of power by whites. Within the Aboriginal domain further systems of differentiation existed in the knowledge, skills and patronage of station workers as against the relative ignorance and marginalisation of non-working dependents and the marked ignorance and 'wildness' of bush blacks. A second element is the *types of objectives* pursued by those holding power: principally being to secure labour, to minimise costs and to maintain authority. Again, a second or subsidiary set of objectives was pursued by key trusted Aboriginal workers in maintaining their positions of relative patronage through the relayed exercise of power over other Aboriginal workers. A further element is *the means of bringing power relations into being*: the threat of violence; the various verbal and interactional techniques; the use of Aboriginal intermediaries in exercising authority and influence over Aboriginal workers, dependents and 'bush' blacks; and the rewards and privileges for those who served the interests of the station bosses faithfully. Such means were

structured through *forms of institutionalisation* which could be complex and multi-layered. For instance, the work regimes of the homestead and the stock camp were mini institutions internal to the station structure while the police and welfare interfaced with the stations from the outside. Finally there are the *degrees of rationalisation* of the power relations – the elaborateness of the exercise of power according to the specific circumstances of the situation. As we have seen in the previous chapter, there was significant variation in the nature of relations (as determined principally by the character and temperament of station bosses) and corresponding variation in the rationalisation of power relations.

An important aspect of Foucault's approach is that it foregrounds the agency of those involved, dominant and subordinate alike, in two significant respects. Firstly, in recognising that the 'disciplining' of societies or peoples does not necessarily make people more obedient, but rather that 'an increasingly better invigilated process of adjustment has been sought after...between productive activities, resources of communication, and the play of power relations' (1983:219). Secondly, in theorising power from the point of view of *relations* 'in which certain actions may structure the field of other possible actions' (1983:220), Foucault closely links relations of power with relations of strategy.

Moreover, the permanent tension between relationships of power and strategies of struggle creates an 'instability' which in turn results in differing perspectives of the relations of domination:

The consequence of this instability is the ability to decipher the same events and the same transformations either from inside the history of struggle or from the standpoint of the power relationships. The interpretations which result will not consist of the same elements of meaning or the same links or the same types of intelligibility, although they refer to the same historical fabric and each of the two analyses must have reference to the other (1983:226).

One might expect, therefore, that the perspectives of pastoral Aborigines would have very different elements of meaning from those of their European bosses, and this is indeed reflected in much evidence of the period (Rose 1992, Berndt and Berndt 1987, Rowse 1998). But how, then, should we interpret the convergence of views about the past by many Aboriginal people and Europeans, and the strong bonds of loyalty which sometimes developed between Aboriginal station workers and some managers?

One answer is that these are relationships and attitudes which have emerged from a wider history of struggle. They are thus part of 'the stable mechanisms [which] replace the free play of antagonistic reactions' (1983:225). But without an historical framework within which to analyse such relations, without an understanding of *how* they have come to be, we risk transparent assumptions of uncomplicated mutuality. We therefore need to briefly turn to the issue of Aboriginal responses to Europeans and specifically, debate concerning alternative 'resistance' and 'collaborative' models of intercultural relations.

Resistance, collaboration, and the place of violence in pastoral relations

The very question of how power relations are established, maintained and reproduced presupposes an oppositional process whereby subordinate groups seek to resist the power of the dominant group, for, 'every power relationship implies, at least *in potentia*, a strategy of struggle' (1983:225). Foucault's approach towards understanding power relations is to begin with an examination of 'the forms of resistance against different forms of power' and to analyse power relations 'through the antagonism of strategies' (1983:211).

However, forms of resistance occur only in response to an already existing or initial set

of relationships. An understanding of the nature of Aboriginal resistance in contemporary race relations, therefore, requires an understanding of the historical forms from which such resistance has evolved. This area of the past dealing with the role of conflict in contact relations remains controversial, not least because it has crystallised debate about Indigenous agency, and about the basis of Australian nationhood and the place of Indigenous peoples within it (see, for example, Reynolds 1982). In the historiography of colonial contact relations the so-called 'dispossession-resistance' model has been criticised for exaggerating the role of violent conflict and overlooking the complexities of contact experience, particularly with respect to the recognition of Indigenous agency in the establishment of collaborative and consensual relations (Rowse 1986, Reece 1987, McGrath 1987).² Much of this criticism derives from the unexpectedly favourable accounts of station life which emerged from the recording of oral histories of Aboriginal people in the 1970s and 80s (Baker 1989, Morphy and Morphy 1985, McGrath 1987, Ngabidj 1981, Shaw 1986, 1992, Sullivan 1983).

Subsequently, attention has been given to methodological problems with such oral histories. One set of problems relates to the role of the researcher in the process of recording and presenting such material: the framing effect of the questions asked; the effects of power relations on the process of elicitation; the acts of interpretation and translation; and the tendency for critical analysis of the material to be influenced by the researcher's relationship with the subject. A second area of concern relates to the role of memory in constructing oral histories. In the process of recollecting and condensing the past, memory constructs metaphors of meaning which have an ideological role in presenting the past according to the subject's understanding in the present (Murphy 1987). This may give rise to nostalgic portrayals of certain past events or periods in

² See also Rose 1991, Merlan 1978, 1994 for accounts of the cooperation of some station Aborigines in the killing of 'bush blacks'.

comparison to other past events or periods or, alternatively, in comparison to a troubled present.

Both of these memory effects have been identified in relation to a so-called 'Golden Age' of pastoral relations evoked by Aboriginal (and European) reminiscences. Frances and Howard Morphy (1984) noted a focus on the 'badness' of 'wild' blacks rather than on whites killing blacks in the stories that the Ngalakan told them about the past. They concluded that this was because

'Ngalakan myths of the past...have been filtered through the Golden Age: an era of peace and security following what must have been a period of chaos and apparent irrationality. The Golden Age was possible through the transformation of the 'wild' black into the 'civilised' station black' (1984:473).

Rowse (1988) proposed that the stories and recollections recorded by the Morphys and McGrath could also be interpreted as 'an implicit critique of the present taking the form of nostalgia for the lost world'³ which had been taken away in the aftermath of equal rights to alcohol, wages and social security in the latter 1960s and 70s (1988:71. See also the following chapters). McGrath's and the Morphy's accounts can be contrasted with the Berndts' 1944-6 survey of pastoral relations on some VRD stations, which described 'a 'feudal colonial' slough of Aboriginal despond and unchecked European arrogance' (1988:62). What is significant about the Berndts' material is that it was collected at the time, as they inquired about current conditions rather than recollections of the past. This aspect of their work needs to be taken into account in

³ While agreeing that 'on one level' her work could be read 'as a lament by an older generation of Aborigines for a past now gone', McGrath (1988:174) maintains that 'this would be a shallow and selective reading'. She comments (1988:176):

Before the Second World War, [Aborigines] had incentives to embrace the cattle economy and the station world. Aborigines were able to stay on their own land, with their families and communities; they had prestigious work, and a system of food supply from the station and bush that could fulfil their kinship-based economic system. They had time and motivation to conduct rituals, to travel and fulfil a custodial role, looking after the land and passing on its magic to younger generations. These tangibles cannot be confused with mere 'nostalgia'.

seeking to explain the considerable discrepancies in Aboriginal attitudes with those recorded by McGrath in the late 1970s during a period of destabilising social change following the displacement of Aboriginal people from most stations. That is, the Berndts' data for the mid-1940s records perspectives from within the system of relations under study and so were not affected, as recollections of the past are, by nostalgia.

Another contrast to McGrath's reconstruction of station life is found in Rose's work in the VRD (Rose 1991, 1992), begun about the same time that McGrath was recording remembrances in the area. Rose's account of the station era presents a similar picture to that of the Berndts', with no remembrances of a 'Golden Age'. The research is also similar to the Berndts' (and different from McGrath's) in other important respects, principally its central focus on present conditions rather than on the past,⁴ and the fact that both Rose and the Berndts collected considerable ethnographic material on contemporary traditional practices and social organisation. A further difference is Rose's more long-term and intimate contact with her subjects – a factor which at least strengthens the basis for her conclusions. Rose herself notes that McGrath's work 'indicates the extent to which life experience and historical remembrance can differ even within the context of station life' but she does not further address possible explanations for the differences.

One explanation not yet considered is that 'Golden Age' type remembrances refer not so much to a particular historical period of the pastoral era (that is, the often quoted 'before grog, before wages, before Japanee war'), but to particular relationships with European bosses or periods of association with particular stations where cross-cultural respect and reciprocity in relations were more evident. Such a perspective appears to

⁴ While *Hidden Histories* is centrally an account of the past, this was a spin-off of Rose's initial PhD research which was essentially an ethnography of Yarralin people's culture.

better fit the historical evidence, some of which locates positive remembrances in the post war period (see for example, the cases of Peter Murray on Coolibah Station and Lloyd Fogarty on Auvergne Station in the following chapter). Indeed, McGrath's representation of the evidence locates a broad spectrum of both collaborative and coercive relations throughout the period under study (1910-1940), leaving the impression that her qualified gloss of a 'Golden Age' is not the only conclusion which could be drawn from her data.⁵

In my view, the prevalence of the effects of violence throughout the pastoral era (see following chapters) suggests the possibility of an underestimation of the coercive elements of colonial relations in 'collaborative' models of contact relations. For instance, the rationing relationship – the primary vehicle for collaborative relations – was a gradually introduced process which, for some time, existed side by side with frontier violence. In fact, one of the motivations for Aboriginal people 'coming in' to the stations to receive rations in exchange for their labour, was to escape the violence of police and retaliatory parties, and also the violence that was manifesting itself amongst those who remained in the bush. Life on the fringes of the stations and settlements was simply too dangerous. It is also clear that, particularly on pastoral stations, violence was an integral component of the rationing relationship. As the following chapter shows, one can find ready evidence of systemic violence and threats of violence towards Aboriginal employees on pastoral stations well into the 1950s.

Coercion or exchange or both?

Clearly, the collaborative models of McGrath and others must be evaluated in light of

⁵ Indeed, McGrath (1988:174) defends her work as acknowledging power relations and violence (see also following note).

the fact that all transactions '*were underwritten by the possibility of violence*' (Rowse 1998:67, my emphasis).⁶ Here I observe that collaboration or consent in response to violence, whether actual, threatened or implied, is a form of coercive exchange (see below), the evidence for which is not readily accessible through oral accounts. In fact, as the processes of 'quieting down' and 'coming in' progressed, the many individual moments of acceptance of rationed servitude under the authority of Europeans were reached, cementing brick by brick what became to subsequent generations who were 'born in the cattle' a taken-for-granted and effectively irreversible condition.

In light of this, we must question the understood terms of such relations and the degree to which these terms were mutual and explicit. Having surveyed the literature relating to central Australia, including accounts from both whites and Aboriginal people,⁷ Rowse (1998) suggests that the terms of collaboration were differently understood by each side. This in turn suggests that accounts of complementarity in relations between pastoralists and Aboriginal people cannot automatically be assumed to be uncomplicated 'exchange', even where articulated as such. A better approach is to regard the terms of relations as the products of a set of strategic responses to a complex array of social, cultural and economic imperatives. This allows a more complex 'nested' or multivalent structure of power relationships in which responses which were addressed to more material or immediate considerations nonetheless may also be subject to higher order taken-for-granted imperatives. In this way some forms of collaboration (for example, in response to prior or implied violence directed at others) can also be envisaged as coercion – notwithstanding the fact that consent and

⁶ Here it should be noted that there is some general agreement on this point despite the differences in the researchers' central conclusions. McGrath, for instance writes: 'The occurrence of physical punishment between male master and servants reveals that violence was never far below the surface, threatening to boil over if tension increased' (1987:115).

⁷ Relevant VRD and east Kimberley material which supports Rowse's point includes: Doolan 1977; Durack & Durack 1940 [1935]; Hardy 1968; McGrath 1987; Riddett 1988; Ronan 1966; Rose 1991; Shaw 1986, 1992; Schultz 1995; Willey 1971.

even desire for some kind of exchange may be involved. An alternative construction of Aboriginal agency is that, faced with insuperable European action, Aboriginal people chose to influence rather than directly challenge those actions. In short, in seeking to better understand Indigenous agency in colonial relations it is necessary to explore the relationship between coercion and exchange.

While saying this, an immediate problem is to identify the mechanisms which facilitated the mediation of relations and which maximised the ability to strategically influence European action.

Interactional strategies as domination and resistance

While debate about the role of frontier violence and coercion continues (Rowse 1998, Thorpe 1996, Markus 1994), research dealing with more contemporary and urbanised contexts has sought to locate alternative sites of Aboriginal resistance (eg Sackett 1988, Cowlshaw 1988).⁸ One of the more interesting examples is that of 'oppositional cultures', which prompted debate in Aboriginal studies concerning whether such behaviour can be understood as resistance to white hegemony (Lattas 1993). Commenting on criticisms of Gillian Cowlshaw's book *Black, White or Brindle* which argues that 'swearing, drinking and unruliness amongst Aborigines forms part of an oppositional culture which remains defiant in the face of white cultural authority', Lattas takes Cowlshaw's critics to task for rejecting the political significance of such actions by asserting 'a narrow definition of politics, resistance and hegemony' which regards

⁸ Rose 1992:20 also posits that Aboriginal resistance on stations 'took the covert forms of remembering, learning, teaching' assisted by the opportunities which seasonal lay-offs provided to return to the bush and maintain cultural relationships.

power as 'embedded in wider social and economic inequalities' (1993:240-1).⁹

The debate concerning oppositional cultures is of particular significance here because if shared cultural experiences in the form of 'atomised and individualised resistances' which are 'not consciously directed towards realising change through formal political structures' (1993:241) can be regarded as resistance to hegemonic control and therefore as politically significant, then what aspects of pastoral rationing relationships might also be so regarded? An obvious aspect of the relations within which we might expect to find such forms of resistance is cross-cultural communication itself. After all, the replacement of violent confrontation by rationing 'as a mode of government' over Aboriginal people (Rowse 1998), was only possible because the establishment of direct cross-cultural communication, at least between key mediators on both sides, enabled it to occur. Increasingly, it was within this aspect of relations that the strategic actions of each towards transacting with or influencing the other were carried out. Pastoralists and other Europeans were well aware of the importance of using cross-cultural communication as a tool in maintaining the power relations on which the rationing relationship was based. Communication strategies were part of the systematic practices of cultural distancing on which their authority relied. Ivor Hall, who managed Auvergne for a number of years from 1924, commented on an accepted mode of relating with Aboriginal workers:

'But we never made mates out of them - we never spoke to them - and I would never speak to them like I am talking to you - only tell them what to do. But anyone who made mates of them never did any good with them. That's a funny thing.' (Ivor Hall; TS 60/1:17)

'Only telling them what to do' usually meant giving orders without explanation – a widespread practice, but one which fundamentally shaped and limited intercultural

⁹ For a similar but more broadly focused discussion of the dilemmas of restrictive definitions of resistance see Scott 1985, particularly pp289-303.

relationships¹⁰ (Schultz 1995:99).¹¹ In such ways the language and demeanor of whites in interactional contexts was an important tool in maintaining power over Aboriginal people.

However, as with any aspect of interaction (including violence), with the application of power comes the potential for resistance against it. In fact, for the relatively powerless, interactional strategies are generally a safer and more effective means of resisting the powerful than violence. Non-confrontationist behaviours, including dissimulation, acquiescent responses and secrecy provide opportunities for strategically responding to, influencing or resisting the actions of the powerful. As we shall see, Aboriginal patterns of interaction with whites are rich in such non-confrontationist behaviours. It is also the case that cross-cultural interactions fulfill other roles, for instance, in enabling consultative or collaborative relations or in developing personal relationships. In addition, cross-cultural interactions also represent contexts in which cultural differences are implicated and rationalised, creating the potential for significant misunderstanding to occur. Clearly, we need to further examine cross-cultural interactions in order to better understand the characteristics and mechanisms which enable these varied roles of communicative processes to operate. Through such an examination of *relations* we can begin to better understand how 'certain actions may structure the field of other possible actions' (Foucault 1983:220).

6.3. Some theoretical approaches to cross-cultural interaction

¹⁰ Further incentives for such treatment also existed. One was peer pressure through seeking to avoid criticism from other whites. Matt Savage noted that 'If you had a normal conversation with one of them, the other fellows would say you were becoming too familiar and probably you would not last very long in your job' (Willey 1971:52). Savage also noted a further incentive – a bonus in pay 'for being hard on blacks' (1971:52).

¹¹ It is worth noting here that Charlie Schultz, who owned and managed Humbert River Station for many decades, was one of a minority of whites who treated and conversed with Aboriginal people on a more equal footing (Schultz 1995).

In this section I will consider a number of theoretical approaches which in various ways address issues of power and cultural difference in interactional settings. These will include a model developed in relation to Western cultural settings (Goffman), together with a number of approaches that specifically address different aspects of cultural difference in more divergent intercultural situations (Scott, Liberman, Eades etc.).

Goffman and 'expression games': a strategic approach to interaction

Goffman (1969) has developed an analysis of human communicative processes based on what he terms 'expression games'. Goffman's interest was with 'the individual's capacity to acquire, reveal and conceal information' (1969:4). Goffman's approach focuses on the discursive nature of interpersonal communication which underwrites its game-like character, setting up analysis and counter-analysis, ploy and counter-ploy, the substance of which occupied the attention of the espionage and intelligence literature from which Goffman drew heavily. The main subject of this literature was the 'hidden transcript' (cf Scott 1992 below) of human actions and communication in the context of the Cold War politics of the post-WW2 period. For the purposes of the present research, the espionage background to Goffman's work, particularly its close attention to (Western) cultural differences in language, knowledge and behaviour, makes his work more broadly relevant to the analysis of cross-cultural communication contexts. However, in extending such analysis to the everyday realms of interpersonal communication,¹² Goffman's work also allows us to consider the significance of intrinsic strategic imperatives, as opposed to cultural differences, in the dynamics of cross-cultural interactions.

¹² Again, admittedly, in relation to Western cultural contexts.

Goffman observes that 'anyone who hides something away...or reveals something through communication that he had hitherto hidden, does so because he feels his interests can be furthered in this way' (1969:36). Human communication is intrinsically strategic with exchanges involving, to a greater or lesser extent, a 'contest of assessment between the subject and the observer' (1969:13-14).

Just as it can be assumed that it is in the interests of the observer to acquire information from a subject, so it is in the interests of the subject to appreciate that this is occurring and to control and manage the information the observer obtains: for in this way the subject can influence in his own favour responses to a situation which includes himself. Further, it can be assumed that the subject can achieve this end by means of a special capacity - the capacity to inhibit and fabricate expression. (1969:10)

Goffman noted that communicative interactions involve both expressed and communicated information which together provide the available body of clues upon which each must base their assessment of the veracity of what the other participant is saying. Such information allows one to gauge the other's frankness, candor, honesty and self-belief. An important source of such clues is what Goffman terms 'framing' information, which 'typically derives from paralinguistic clues such as intonation, facial gestures, and the like - cues that have an expressive, not semantic, character' (1969:9. See also Liberman 1985:174-5).

Expression games can be broken down into 'moves'. There are three basic moves: the '*unwitting move*', that is, behaviour unoriented to observation; the '*naive move*', that is, the assessment of an observer of a subject believed to be engaging in an *unwitting move*, and; the '*control move*', that is, 'the intentional effort of [the observed] to produce expressions that he thinks will improve his situation if they are gleaned by the observer' (1969:11-12). A control move seeks to elicit a naive move from the observer. Control moves are a form of 'impression management' (1969:13), and constitute the main focus of interest in relation to cross-cultural interactions.

Control moves comprise two main types: concealment or cover - the *covering move*; and *accentuated revealment*. A *covering move* is one where the subject attempts, in his or her own perceived interests, to influence the observer's conclusions. Common covering moves include: *open secrecy* and *privacy* which can be employed to prevent unwanted or inappropriate intrusion by the observer; *covert concealment* which operates to the same ends as *open secrecy*, but without alerting the observer to the act of concealment; the *postponement* of decisions or actions (see also Liberman 1991:223); *feigning* and *feinting*, which involves the strategic misrepresentation of beliefs, attitudes and preferences; and *accounts* and *explanations*, which are verbal techniques for allaying suspicion (1969:16).

In intercultural situations, Aboriginal people frequently employ the kinds of 'impression management' techniques detailed above and the extent to which they do so is revealing of the strategic nature of their responses to past and present unequal relations. Impression management is, after all, first and foremost a non-confrontationist means of dealing with the other, which, as we have seen, became the only practical option available to Aboriginal people in dealing with whites. In more recent times whites have come to use impression management techniques more frequently in their formal dealings with Aboriginal people. However, this is for the reason that Aboriginal people represent an unfamiliar group with which whites must consult in order to gain necessary government approvals etc. (that is, legislative and procedural requirements often involve the need to consult and/or gain consent from Aboriginal communities or individuals). Whites often consciously or unconsciously use impression management techniques during such consultations (see below).

Accentuated revealment, in contrast, is a technique more likely to be used by dominant groups as a deterrent:

“(T)he techniques of impression management...involve the introduction of some kind of obfuscation, some kind of “noise.” But...there will be times when noise is the last thing that the subject wants to create. At times he will find it expedient to reveal as unmistakably as possible what he intends doing, or his resolve, resources, information, and so forth - a tack recommended to the strong because of the value of deterrence...” (1969:16-17).

The nineteenth century “rules” for dealing with blacks, discussed earlier, deemed that it was essential to spell out to black workers the serious consequences of disobeying or talking back to whites and to reinforce its deterrent value by scrupulously carrying out threatened punishments when a transgression occurred. The intention was to firmly establish a pre-determined structure of relations of power.

However, accentuated revealment is also a frequently used strategy in contemporary contexts and is often used by whites in formal and informal intercultural situations (see, for example, Case Study 2 in Chapter 10). Aboriginal people also use accentuated revealment as a means of attempting to alert whites to the existence of important cultural issues. Revealing information about the cultural significance of areas, or of the consequences under Indigenous law of transgressions (for example, commenting that Aboriginal people can get killed for certain kinds of inappropriate behaviour) is a good example. Whites often do not understand the full significance of such information when it is given.

Of course, knowledge or suspicion of covering moves elicits in response the *uncovering move* (1969:18), whereby the observer attempts to uncover an obfuscation or misrepresentation, for example, through examinations, interviews, covert interviews, interrogations, spying etc. Sometimes whites use uncovering moves when they believe obfuscation is occurring, whether in fact it is or not. Their manner in doing so is often perceived by Aboriginal people as aggressive. Such cases may result in acquiescent responses on the part of Aboriginal people because of fear of what whites might do.

However, another effect is to re-affirm Aboriginal people's belief in the pushy determination of whites to have their way regardless of Aboriginal concerns or interests. Alternatively, questioning from whites designed to elicit unknown information or views can, particularly in formal contexts, appear to Aboriginal people as uncovering moves, causing them to react on that basis (but see Eades below in this chapter).

Expectation of uncovering moves may elicit from the subject a *counter-uncovering move*, whereby he or she tries to fake the signs which the observer seeks from uncovering moves. 'The best advantage for the subject is to give the observer a false sense of having an advantage - this being the very heart of the "short con"' (1969:19-20). Aboriginal people's experience and expectation of uncovering moves by whites has meant that counter-uncovering moves are a common feature of their strategic approach to cross-cultural interactions. Again, we can observe that counter-uncovering moves are a non-confrontationist means of approaching such situations.

It is appropriate to make the observation here that moves are often made in anticipation of expected moves by the other. Thus, players act

'on the basis of a tacit interplay of moves. Just as the observer's response projects the subject's tacit move into the play, so does the subject's response project the observer's. Control moves and counter-uncovering moves are very often made before the move to which they are a response has had a chance to occur' (1969:49).

What this means is that Aboriginal people with existing knowledge of negative consequences don't need concrete experience of those consequences in order to activate avoidance strategies.

Examination of accounts throughout the history of black/white contact reveal strategic behaviours, particularly covering and counter-uncovering moves, in Aboriginal dealings

with whites. In many instances observers interpreted such behaviour in pejorative terms, for example, as 'sneakiness', 'deceitfulness', 'unreliability' etc. In other words, they achieved through such explanations the effect of deflecting from their own actions, based on positions of power and authority over Aboriginal people, any inappropriate role in the relationship.

Expression games can be affected by factors external to the strategic intentions of the participants. Goffman mentions four common types of limitation on the play of expression games: physical factors, knowledge, human nature and social norms (1969:43).

Physical factors and knowledge constitute a general limitation on expression games. In cross-cultural contexts an inadequate technical knowledge and competence of the participants, including such things as a lack of familiarity with language and differences in cultural concepts and behaviours, are common causes of miscommunication and misinterpretation.

Human nature provides natural weaknesses which the observer may seek to exploit in the subject in order to manipulate the outcome of an exchange. Thus, the powerful may seek to establish a *coercive exchange* which

...the subject participates in under pressure and in spite of his finer feelings in the matter. Here the observer frankly tries to arrange to involve the subject in a quid pro quo such that the subject, with no necessary diminution of antagonism to the observer, may yet find it in his private interests to divulge what he could otherwise conceal, or conceal what he would otherwise reveal (1969:38).

Coercive exchange can involve bribery, blackmail and physical threat. It has been perhaps the most significant means by which whites have maintained their position of control over Aboriginal people. It could be observed that the entire pastoral industry in

the VRD and other parts of Australia have been established through such means (see the following chapter).

Scott, 'weapons of the weak' and the 'public' and 'hidden' transcript: foregrounding power in interactions

Another useful framework for looking at the interactional dynamics on pastoral stations derives from work carried out on resistance of the rural peasantry in contemporary Malaysian society. Scott noted an undue focus in recent studies of peasantries on rebellions and revolutions, that is 'organised, large-scale protest movements'. To Scott

'...it seemed to [be] more important to understand what we might call everyday forms of resistance – the prosaic but constant struggle between the peasantry and those who seek to extract labour, food, taxes, rents, and interest from them. Most forms of this struggle stop well short of outright collective defiance. Here I have in mind the ordinary weapons of relatively powerless groups: foot dragging, dissimulation, desertion, false compliance, pilfering, feigned ignorance, slander, arson, sabotage, and so on.' (1985:xvi).

These 'weapons of the weak', as Scott termed them, formed the focus of his research, which analysed the interactional dynamics of everyday resistance and repression. Scott found that in situations characterised by marked power imbalances the 'partial transcript' of the weak is likely to project an outward façade of compliance with the symbolic structure of power relations. The resulting pattern of relations is covertly conflictual utilising 'weapons of the weak', and only rarely does resistance amount to open defiance. Contemplating the strategic implications of such a structure of relations, Scott comments that 'It is almost as if symbolic compliance is maximised *precisely* in order to minimise compliance at the level of actual behaviour' (1985:26).

Subsequently, Scott developed his notion of the 'partial transcript', using the metaphor of acting to distinguish between the public performance (or 'public transcript') of power

relations and the behind-the-scenes 'hidden transcript' which contains those thoughts, intentions, emotions and expressions withheld from the other party (Scott 1992). This sets up a complex interactional dynamic. 'Subordinates offer a performance of deference and consent...in close conformity with how the dominant group would wish to have things appear' (1992:57). A consequence of this is that

any analysis based exclusively on the public transcript is likely to conclude that subordinate groups endorse the terms of their subordination and are willing, even enthusiastic, partners in that subordination (1992:57-8).

However, the real hidden transcript of the subordinate group tells a different story - one not directly accessible to the dominant group. For example, we have seen in previous chapters how cultural information about the land formed a large part of the hidden transcript of Aboriginal people's dealings with Europeans on the stations. However, other aspects of the hidden transcript were vital to personal safety. For instance, the involvement of station blacks with bush blacks and their participation in cattle spearing had to be kept from pastoralists for fear of serious consequences.¹³

Similarly, the public transcript of the dominant is correspondingly dissembling, but to an opposite end: the dominant must 'produce a performance of mastery and command'. Markus (1994) outlines a set of unofficial rules, commonly articulated in the nineteenth and early twentieth centuries, for dealing with Aboriginal employees. These rules set out the script of the performance of domination - the necessity of establishing who was boss, by use of force where necessary, and similarly, to show that insubordination was not to be tolerated. One had to keep one's distance, be consistent, firm and not show kindness. Such purposeful conduct, based on the perceived need to inculcate fear and

¹³ In some instances station workers informed on the activities of 'bush blacks' and participated in their capture or murder (see for example McGrath 1987, Rose 1991). However, even here the various motivations for doing so were neither the same as those of Europeans, and nor were such reasons necessarily articulated to them (see, for example, Merlan 1978; Rose 1991, Chapter 9).

respect for authority in order to effectively control Aboriginal workers, also indicates how white colonial pastoralists recognised a performance aspect of Aboriginal submissiveness, perceiving beneath it the potential for 'treachery' and deceit. Thus, relations of domination require both the dominant and subordinate to act out a ritualised public transcript, while having to speculate about the potential dangers and indeterminacies which may lurk within, and potentially emerge from, the hidden transcript of the other.

Imagining the 'other': interpreting the 'hidden' transcripts of intercultural relations

In fact, the process of interpreting the hidden transcript of Aborigines also has a broader social and ideological role for non-Indigenous communities which is worth considering further. In the context of pastoral relations, for example, interpretation of Aboriginal hidden transcripts was often done by Europeans as an entertaining adjunct to the central narrative of their own fortunes as pioneers in developing the land. However, in doing so, Europeans also provided themselves with a seamless justification of the colonial experience. A noteworthy example relevant to the study area is Mary and Elizabeth Durack's *All-About*, published in 1935. *All-About* remains a permanent reminder of the degree to which European assumptions about Aboriginal culture and society have been essentially self-serving.

While written at least in part to give a human face to the Aboriginal community on Argyle Station, *All-About's* verbal descriptions are as much caricatures as are the book's illustrations, and reveal much about the Duracks themselves and about 1930s attitudes towards Aboriginal people. Here we see station Aborigines often described in typically negative terms: 'simpering', 'simple-minded', 'nagging', 'sullen', 'envious', with

'limp fingers', and prone to 'gossiping' and 'coquetry'. One male worker warrants comment for 'his laziness, his shameless cunning and his untruthfulness' (1935:26), while the bush blacks are 'resentful savages', 'murderers, cattle-spearers, thieves'. The concerns of the station blacks are shown to be relatively trivial, for example, the petty jealousies of the 'fluttering housemaids', whose attempts to look attractive are seen as comical. Even the description of the circumstance of an Aboriginal wife having to reconcile with her husband a 'half-caste' child is treated superficially, with the authors telling us of her alleged attempt to convince her gullible husband that the child's lightness was due to 'a shortage in the charcoal supply at the time of his arrival' (1935:16). And in discussing the liaisons of married 'gins' with other Aboriginal men it is ironically declared that 'In respect only of the marriage question are our darkies not behind the times' (1935:95).¹⁴

An equally revealing aspect of *All-About* is its omissions. Notably, in fleshing out the hidden transcript and giving Aboriginal people a voice, the Duracks ensure that it does not address the issue of white violence and coercion towards blacks. Instead the process of white usurpation is projected as of little consequence to the blacks, evidenced by the fact that they appear to have a simple acceptance of everything:

...everything is as it comes...For them there is no how, or where, or why. People come into the world and pass away. The country was once the black man's hunting-ground. Now it is the white man's pasture-lands. Everything is very mysterious, and nothing is worth the trouble of questioning. There may be other countries in the world, but there is food and drink and plenty in their own. What matters besides? (1935:90).

Where the Duracks do acknowledge agency in the approach of the Argyle Aboriginal community towards their relationship with the Duracks, it is again conveniently only to the extent of indicating a consenting coexistence:

¹⁴ Significantly, the issue of inter-racial sex is only put in the context of Aboriginal women seeking white men: 'S'posin' black girl look 'longa white man' (1935:16).

They never bow and scrape to the white man. Colour, after all, is just a matter of chance. They work for us because we give them "tucker" and whatever else they need. We give them what they want because we need them to work for us – just a matter of convenience from both points of view. (1935:25).

In other contexts there is acknowledgement of an Aboriginal hidden transcript but again mainly as a vehicle for self-serving conjecture.

Simple people, but how strangely inscrutable their minds! The Boss has lived with them all his life. In Queensland they were the playmates of his childhood; in the West his helpmates in turning the trackless wastes of Kimberley into ordered pasture lands. He thought he understood them once. Now he knows that he never will. He does not even know whether they are fond of the few white people among whom most of them were born and bred. Rather, he thinks, they are used to them to whom they have always turned in their needs and sicknesses. They would weep if they went away, but then tears come easily to the black, and laughter is never far behind. They live, on the whole, amicably together, and are fond of their children as they are fond of all things helpless and small. Of gratitude as we know it they have none. In their own life they are nature's communists; what one does for another he does for the good of the community of which he is a part. What the white man chooses to do for his betterment he takes as a matter of course. He thinks no more of the white man for it. He has asked no favours.' (1935:92-3).

These projections of Europeans about the hidden transcript of Aboriginal people found ready support in the public transcript of Aboriginal affirmation and deference. The unintended irony of *All-About* is that of the contradiction between its stated inspiration in seeking to communicate knowledge and insights about the Aboriginal community on Argyle, and its outcome of presenting a rationalisation of the 'Pioneer Legend' (Watson 1998) as it pertained to the East Kimberley region of the 1930s. In the Duracks' version, incommensurable cultural difference, evidenced variously in the magic, mysteries and inscrutability which whites perceived in the actions of Aboriginal people; in their refusal to acknowledge the superiority of whites; and in their resistance to absorbing European ways, supported the desired image of a consensual coexistence where material and social separation were a natural outcome. However, unable to escape the social Darwinist thinking of the times, the Duracks posit this separation of

the cultures as a temporary though necessary stage in their development. Thus they are able to provide an image of one of their most trusted homestead domestics sitting in an Aboriginal bush camp during the wet season 'holiday' time,

How lightly, after all, she has been touched by the white man's influence! She is as far removed from his ways as her grandmother was before 'progress' set foot on her camping-ground (1935:104),

but to still provide a final image of her eventual return to the 'other world' of the station 'without a sigh or a wistful, backward glance. It is inevitable, this farewell, like everything that happens in her world...the destiny of things' (1935:105).

This example of *All-About* also points to the fact that with ongoing intercultural contact the hidden transcript is experienced as a cumulative rather than encounter-specific phenomenon, resulting in more general responses and commentaries on Aboriginal behaviour. The hidden transcript thus contributes to the production of negative stereotypes of Aboriginal people, and does so in much the same way as the 'Pioneer Legend' has resulted from the selective narrativisation of the acquisition and settlement of the land (Watson 1998).

Liberman: culture, power and strategic action in intercultural relations

Liberman's ethnomethodological analysis of intercultural relations in central Australia describes a thread of passive resistance in cross-cultural interactions similar to that outlined by Scott. In contrast, however, Liberman also perceived a significant cultural basis to the interactional behaviour of the two sides. He found an interactional structure characterised by contrasting, culturally-determined interactional styles of Euro-Australians and Aboriginal people – the former assertive and adversarial and the latter passive and consensus-based. Liberman found that correct social behaviour in central

Australian Aboriginal society is characterised by 'a degree of introversion and the minimization of one's self-presence', while Euro-Australians 'are accustomed to a more extroverted and assertive interactional style' (1985:216). In formal intercultural settings, Aboriginal people 'find it difficult if not sometimes impossible to express their feelings and are easily coerced into going along with whatever resolution is being pushed by their Euro-Australian partners' (1985:217).

Interactional styles are attuned to social and cultural needs, which, for central Australian Aboriginal people, are based on the principles of kinship and depend on the production of 'congenial and consensual relations'. During interaction this involves the constant use of linguistic 'facilitators' (such as 'yes', 'mmm' etc), gratuitous concurrences and propositional formulations - the latter 'to provide for the interactants reflexive guides which assist them in monitoring and maintaining the collective progress of the group's deliberations' (1985:113). Aboriginal propositional formulations differ in function from the forceful statements of points of view which characterise Euro-Australian discourse, underscoring an interactional strategy in which success depends on 'being unassertive and remaining open for the collective will of the group' (1985:217). It is the resulting 'space' in Aboriginal interactions which Euro-Australians unconsciously invade and dominate.

Liberman argues that, in responding as a subordinate group to this clash of interactional styles, central Australian Aborigines have adopted non-confrontationist strategies of acquiescence, secrecy and dissemblance in cross-cultural interactions in order to successfully protect their interior cultural life from European interference. He suggests that the purposeful withholding of cultural information, together with frequently dissembled and indeterminate responses to Euro-Australian questioning, represent a conscious process of resisting or at least deflecting Euro-Australian demands while at the same time seeking to preserve some semblance of cultural

autonomy.

But such strategies have also, in Liberman's opinion, had a down side in that they have facilitated European domination and unintentionally reinforced negative Euro-Australian stereotypes of Aboriginal people. In his view, this is neither a Pyrrhic victory nor primarily a structural consequence of domination, but on the contrary, represents a strategic adaptation of important cultural values and practices 'appropriate to the political realities they face' (1985:270). In other words, in the face of imposed Euro-Australian dominance, Aboriginal people have sought to control the terms and manner of its interface in such a way as to preserve what is most valuable to them - their cultural identity.

Clashes in interactional styles occur within contexts which are underwritten by historical conditions of unequal power relations in which, at some point in the past, either directly or indirectly, intercultural relations have been established through the use or threat of physical force. This is in part evidenced, according to Liberman, by the fact that even Euro-Australians working for Aboriginal communities fall into patterns of action and communication which unintentionally dominate the Aboriginal people they work for (Liberman 1985:242-43). Liberman argues that much interactional domination by Euro-Australians is similarly unintentional (1985:218). This is an important observation in that it acknowledges that power does not have to be consciously invoked in the process of exercising it. In such situations, as well as in others where power inequalities are more transparent to both parties, the less powerful are not as likely to articulate their wishes or expectations as are the dominant for whom there is no apparent risk and every advantage in pressing their wants to the forefront of discussion.

In Liberman's view, then, relations of power, cultural differences and strategic

behaviour are intimately-linked, fundamental components of cross-cultural interactions in central Australia. In addition, cultural differences generate various technical difficulties including 'lexical meanings, paralinguistic and non-verbal phenomena indicative of emotion, context and motivation', which can act to impede understanding (1985:172-5). These aspects of cross-cultural communication are experienced collectively as indeterminacy or 'noise' generated during communicative processes. To understand interaction between Aboriginal people and Euro-Australians, Liberman argues, we must address this indeterminacy, which pervades not only cross-cultural interactions but, in fact, all communicative interactions, providing the 'creative fundament' that drives the participants of an interaction towards an outcome or the 'matter talked about' (1985:171-4). In cross-cultural situations the contrasting interactional styles of Aborigines and whites complicates both the role and effects of such indeterminacy, with Aboriginal people employing indeterminacy as a strategic tool to avoid conflict and maintain privacy while whites keep probing towards a response which will allow at least the perception of a concrete outcome.

Language, culture and cross-cultural interaction.

Aboriginal use of indeterminacy to avoid direct verbal confrontation and maintain the privacy of individuals is also shown by Eades to be a cultural norm that derives in part from the very public nature of Aboriginal communal living and the importance of maintaining kin-based social relationships. Privacy is maintained by the norms of indirect questioning and by shifting the onus of responsibility for interpretation from the speaker to the hearer (or from the person being questioned to the questioner):¹⁵

¹⁵ Maintenance of privacy through indeterminacy is made easier by the fact that 'there is frequently no unambiguous linguistic marker of reason', such as 'because' and 'to', in Aboriginal linguistic forms (Eades 1988:110).

...a person being questioned has no obligation to provide information, and can subvert the questioning with non-cooperative replies, such as untruths and...vague replies or silence (Eades 1988:111).

These norms are counter to Euro-Australian experience and can create difficulties in cross-cultural contexts. For example, the strategy of direct questioning - the standard Euro-Australian mode of information seeking - is generally inappropriate in Aboriginal societies or cross-cultural contexts and is likely to receive similar responses (Eades 1982; see also Harris 1977; Sansom 1980; von Sturmer 1980:28; Liberman 1985). Indirectness is also an important characteristic of Aboriginal approaches to presenting different or conflicting views. Following Liberman, Eades notes that this aspect of the contrasting styles of communication in cross-cultural contexts can lead to tension and misunderstanding:

...many meetings in which Aboriginal and non-Aboriginal people discuss contentious issues involve more than the expected cross-cultural tension. Part of this tension is due to the different ways in which different or conflicting viewpoints are presented. It is an appropriate communicative strategy in European-Australian meetings to present clearly a viewpoint which is directly contrary to that of the previous speaker. Aboriginal speakers are more likely to present some similar viewpoint first, leaving the more significant conflicting viewpoint for a later opportunity. Because of the differences in timing, misunderstanding often occurs. Aboriginal speakers often feel they are not given enough time to speak, and to develop their viewpoint. As well they often feel that non-Aboriginal participants are confrontational in the way they present their ideas. Non-Aboriginal speakers often feel that Aboriginal speakers are not clear in expressing their views – Aboriginal indirectness and circumspection is often interpreted as inarticulateness and the lack of a logical argument (1988:105-6).

Such perceptions are often accompanied by a view of Aboriginal English as 'a deficient variety of English' (1988:100). For instance, non-Indigenous listeners are often unaware of the different meanings attaching to many English words as they are used in Aboriginal English. In failing to understand the complexity and non-standard characteristics of Aboriginal English, and in failing to perceive the competency of its

speakers, many non-Indigenous Australians compound the bases for misunderstanding.

Most adult Aboriginal people in the VRD are fluent in one or more Aboriginal languages, including Kriol, which is a distinct Aboriginal language developed from contact pidgin and used extensively by Aboriginal people in the region.¹⁶ In addition, many Aboriginal people speak a variety of non-standard or Aboriginal English - essentially a dialect of standard English which differs from it in aspects of pronunciation, grammar, vocabulary, meaning, use and style. Aboriginal people use Aboriginal English when speaking to Euro-Australians and, depending of the level of their knowledge of standard English, will often try to modify it accordingly during conversation (Eades 1992:18-21). Most Euro-Australians find Aboriginal English basically intelligible, but are prone to misunderstand its non-standard features. Those unfamiliar with Kriol find it difficult or impossible to achieve more than a cursory understanding of conversation. Conversely, many Aboriginal speakers of Kriol or Aboriginal English find it correspondingly difficult to understand the standard English spoken by Euro-Australians.

Eades' examination of the cultural continuities in the use of Aboriginal English in southeast Queensland reminds us of the enduring and multi-dimensional nature of culture and its forms of expression, even where the medium of that expression has undergone considerable change. Other researchers have shown similar cultural continuities with respect to the incorporation of other aspects of Western culture into Aboriginal society, for example, in the uses of and values attached to money (Sansom 1988). Within the present study too, attention has been drawn to the way in which

¹⁶ A 1992 estimate was that 15,000 Aboriginal people from western Queensland, the Top End of the Northern Territory and northeastern Western Australia speak Kriol (ABS 1998:55). For further discussion of Kriol see Romaine 1991.

Aboriginal people in the VRD have incorporated aspects of pastoralism into Aboriginal culture. However, it would be an error to draw from this the facile assumption that this represents an endorsement by Aboriginal people of what has happened in the past, or indeed, the present. Clearly, understanding the cultural bases for such continuities is of critical importance in understanding cross-cultural encounters.

Conceptual systems and cross-cultural interaction

The above suggests that more fundamental cultural differences are implicated in cross-cultural interaction. A number of researchers have argued that differences in conceptual systems and 'world view' are central issues in interactional difficulties between the two groups (Bain 1992; Harris 1980, 1990; Christie 1984, 1985; Christie & Harris 1985). While much of this literature deals with the relationship between culture, thought and language in the context of Aboriginal education and cultural maintenance,¹⁷ I will focus here on conceptual differences between Aboriginal and European cultures, particularly as developed by Bain (1992).

Fundamental to central Australian Aboriginal culture, conceptual systems and world view is the concept of *tjukurpa*,¹⁸ usually translated into English as 'the Dreaming':

- *that thing is there (exists) in its own right*
- *it just is itself*
- *no one invented it*

¹⁷ Development of this work in the area of Aboriginal education, particularly by Stephen Harris (1990) has resulted in an educational strategy of 'cultural domain separation', in turn sparking criticism of its underlying principles (see, for example, McConvell (1991) and the reply by Harris (1991)).

¹⁸ In the VRD the local word for *tjukurpa* is *puwarratj*, having an identical meaning and application.

- no one thought it up
- no one made it
- it just is (simply exists)
- eternal
- true.

This is so of anything to which the word is applied: things, events, action, songs, dancing, ritual, myths, places, ceremonial decoration. (1992:20)

The concept of *tjukurpa* reveals a number of basic differences in epistemology and causality between Aboriginal and Western thought which are critical in cross-cultural contexts. Firstly, the *tjukurpa* is held responsible for the creation of the physical, biological and spiritual world. The transition from the 'Dreamtime' period (during which ancestral beings undertook their creative exploits) to the present saw the transformation of the ancestral beings and their actions into the features of the present landscape. The transition also established the different groups of people, their languages, customs and relationships to specific areas of land according to the particular patterns of ancestral activity that occurred in the Dreamtime period. The *tjukurpa* also established the animals and plants, many of which are the totems of the Dreamings to which people are linked through their ancestry. Secondly, the *tjukurpa* is not confined to the past and exists itself in the present in all the forms mentioned by Bain.¹⁹ Aboriginal people believe that the life essence or spiritual substance of the *tjukurpa* is present in the land, in animals and plants, and in the people themselves. Moreover, the physical elements associated with *tjukurpa*, including sites and features of the landscape, ceremonial paraphernalia, songs, dances, and other ritual action, are not regarded as symbolic representations or acts, but as 'really *tjukurpa*', that is,

¹⁹ While it could be noted that there are similarities with Western religious belief, such religious principles no longer significantly influence Western social action at a secular level. However, this is not the case with the Aboriginal societies addressed by Bain and by the present research.

Aboriginal people experience these elements as concretely real manifestations of *tjukurpa*. Thirdly, humans can come into contact with this life essence in a variety of ways - through human activity such as dreams, ritual, dance and song; through physical contact with the sites, sacred objects and other physical manifestations of Dreamings, including phenomena in the physical landscape and biota. Bain notes that these aspects of Aboriginal belief about the *tjukurpa* underlie a further basic epistemological difference in Aboriginal thought - the lack of a distinction between the animate and inanimate world.

Another significant epistemological difference noted by Bain is the belief that human action is required to sustain physical existence and life (and its corollary that human inaction or inappropriate action can threaten these things).²⁰ A principal medium through which humans sustain physical existence and life is ritual action. Here again, Bain notes that such ritual action is not regarded as symbolic but as constituting the event both in terms of incorporating actual elements of the *tjukurpa* and in carrying out actions which are physically effective (1992:23). Moreover, Aboriginal ritual interaction reveals a further difference in epistemological/causal thought:

Ritual interaction contrasts with Western notions of causative action since only the appropriate people may undertake a rite. They are integral to it; the correct interacting wholes must be present. This belief will tie certain ceremonies to land as part of that whole, and it will tie roles to specific persons. For whites, physical action is effective no matter who takes it... (1992:43).

'Interactional' and 'transactional' relations.

As the foregoing suggests, people's relationship to and experience of *tjukurpa* is not haphazard, but conforms to a structure set out in the *tjukurpa* itself. In terms of social

²⁰ This could be said to be a logical consequence of the *tjukurpa*, given that Dreamings now exist in relatively passive states of being, and that humans represent their spiritual progeny.

relations, this involves the kinship system which defines relationships with and appropriate behaviour towards family and all members of the broader social groupings that an individual will encounter. Kin relationships provide a pattern for all Aboriginal social action, both secular and sacred. A feature of Aboriginal kinship systems is a reliance on reciprocal relationships consisting of the pairing of opposite groups which carry out complementary roles with respect to each other.²¹ This is particularly significant in ritual and ceremonial action relating to the land.

Bain has coined the term *interaction* to describe this fundamentally different approach to social relations:

Social action undertaken between individuals or groups is referred to as interaction when its occurrence and content is determined by the kin relatedness of those taking part...Aborigines engage in interaction and can extend relationships, together with the appropriate behaviour, to non-kin; thus they easily fit whites into the classificatory kinship system (1992:142).

Whites also 'use a basically interactional process within the family and amongst friends', however, the demands of complex Western societies requires a more formalised mode of social interaction which Bain terms *transaction*:

Social action undertaken between individuals or groups is referred to as transaction when its occurrence and content is determined by the business (including professional) relationship assumed or negotiated by those taking part...Specifically, kinship is irrelevant (1992:142).

Thus, while it is possible for both whites and Aboriginal people to relate on an

²¹Determination of such reciprocal relationships is generally on the basis of paternal versus maternal links to sites and areas of country (for an account of such relationships in the VRD see, for example, Rose 1992b).

interactional basis, transactional relations are not a normal part of Aboriginal social practice (1992:142). Nevertheless, transactional processes are frequently encountered in cross-cultural relations. Transactional notions determine such things as wages and government funds; Western understanding of and behaviour as owners, managers, workers and customers²²; group activity in organisations, clubs etc, including agreed constitutions, and democratic voting; and teaching and learning in Western contexts. Add to this the many meetings and consultations which are part and parcel of contemporary relations between Aboriginal communities and whites, and the vast potential for confusion in cross-cultural dealings can be glimpsed. Confusion is likely to occur wherever one side misinterprets the modality of relations on which the other's actions are based. Furthermore, since Westerners 'practise both interaction and transaction, it is possible for the two forms of process to co-exist in the one social event' (1992:145), a prospect which enhances the chances of miscommunication.

For instance, Bain cites a number of examples where Aboriginal people conceived of their relations with whites, including with the Government, as being interactional, while the whites involved were clearly operating as if it were a transactional relationship. This phenomenon has also been observed in other areas (eg see von Sturmer 1981, Anderson 1983) where it has been noted that Aboriginal people have sought to establish relations with whites of an interactional kind, including the extension of kin relationships to them. In the present study examples given from Auvergne Pastoral Lease also illustrate the predisposition of VRD Aborigines to seek to establish interactional relationships with white pastoralists and other Euro-Australians - a situation which has existed from very early on in the contact history.

²² The transactional nature of Western concepts of 'owner', 'manager', 'worker' and 'boss' underscores the difficulties often encountered when Aboriginal use of such terms (these are all Aboriginal-English words) is wrongly assumed to accord with its standard English meaning.

The tendency for Aboriginal people to adopt the modality of interaction in their relationships to whites is a frequent source of miscommunication in cross-cultural encounters. Not only is it common that whites fail to identify or understand Aboriginal interactional responses, but they also fail to perceive shifts which may occur in Aboriginal responses during the course of an encounter. From an Aboriginal perspective interactional imperatives will invariably be given a higher priority than transactional ones (see also Liberman 1985:220) - that is, in cross-cultural situations an overriding concern of Aboriginal participants will be in addressing the needs of their own interactional relationships, regardless of whether this may interfere with or undermine the perceived objectives of whites. As we shall also see in a case study presented in the following chapter, in such situations Aboriginal participants may provide a gratuitous response to satisfy the European agenda of the encounter. Acquiescence to the views and desires of whites protects internal *interactional* relations in that it not only serves to minimise potential conflict with whites but, by foreclosing the possibility of Aboriginal cultural interests emerging as a topic of consideration, also minimises the potential for white interference or intrusion into the Aboriginal domain.²³

6.4. Power and cultural difference: implications for understanding cross-cultural interaction

In the preceding discussion I have shed some light on the significant difficulties inherent in cross-cultural communication, and its attendant fields of power, cultural difference and strategic action. The models discussed provide us with a powerful set of tools for approaching cross-cultural interaction. However, they also pose an analytical

²³ Similar responses may also be experienced as a result of the Aboriginal style of responding to requests for information (Eades 1988:108-9 – see also below).

dilemma, alluded to in the introduction to this chapter, that the reality which these models seek to describe is more accurately comprised of some combination of power, cultural difference and strategic action effects – the question being: To what extent is the relative influence of each in any given instance? For instance, to what extent might we ground the present non-confrontationist or acquiescent responses of Aboriginal people in traditional patterns based on congeniality and consensus, as opposed to the power laden cross-cultural past and present? Or are such responses simply the result of a misunderstanding of intent or confusion over information presented by Euro-Australians? On the other hand, we should also ask whether Euro-Australian interpretations of Aboriginal behaviour and responses are based on correct understanding of cultural difference. The answers to these questions can only lie in the careful analysis of each interaction based on the interactional variables which have been identified above. The discussion so far suggests a number of significant implications for any such interpretation of cross-cultural interaction.

The significance of separate cultural domains

The work of Liberman and Scott contributes to an understanding of the importance of cultural difference to the effective working of pastoral relations. Specifically, cultural difference was the primary motivating factor for the cultural separation on which both white dominance and Aboriginal autonomy operated and depended. The interests of both sides were served by the existence of this separation of cultural domains and the actions of each were often consciously directed towards the maintenance of this structure of relations.

From the perspective of Aboriginal station communities, a principal benefit of the maintenance of European ignorance about the Aboriginal domain and the use of

Aboriginal intermediaries for communication with whites was to reduce the level of interference in their interior cultural life. This pattern of relations suggests two separate communities which were not interested in extending intercultural relations beyond what was necessary for work purposes and to maintain the potential for reciprocal exchange. As we shall see, this pattern of maintaining separate cultural domains is still a feature of intercultural relations in the VRD. On the down side, however, was the effect of perpetuating poor understanding of the nature and extent of Aboriginal cultural autonomy on the stations and indeed, we can see this reflected in Europeans accounts of coexistence on the stations (see Chapters 7 and 8 below). Again, this has its equivalent in contemporary white understanding.

From violence to passive control and resistance

The models also lend support to the proposition, raised earlier in the chapter, of the underlying role of violence and the interactional practices of control which accompanied and progressively replaced violence, in mediating intercultural relations on pastoral leases. It could be argued that the present cross-cultural interactional style of Euro-Australians represents the development and transformation of colonial practices of domination based on actual or threatened violence, into forms consistent with contemporary Western values and morality. Euro-Australian interpersonal domination has thus become increasingly passive. When viewed from an administrative or institutional perspective we can gain some insight into the 'crises' which have plagued 'self-managed' but 'bureaucratically administered' Aboriginal communities such as those in the VRD and east Kimberley (see, for example, Rose 1986; Sullivan 1986, 1996).²⁴

²⁴ Rose (1986) uses the term 'passive violence' in examining current processes of bureaucratic domination experienced by VRD communities.

Evidence of such continuing domination comes from Liberman's demonstration of underlying continuities in the patterns of Aboriginal responses to Euro-Australians, at least from the point at which violent resistance ultimately failed and relations based on domination and inequality became widely established. His insights are supported by Goffman's 'expression games' and Scott's 'weapons of the weak' which offer dominated groups the means of dealing with dominant groups in a non-confrontational manner. Furthermore, in Liberman's dissection of cross-cultural communication we can see the traces and evidences of power relations which oral history methods may not reliably be able to access. This is because cross-cultural interactions (or any personal interaction, for that matter) trigger the enactment of power, while accounts of those interactions drawn from memory seek to present a pre-considered picture of power.²⁵ The degree to which such traces and evidences of power can be discerned in contemporary relations and interactions suggests that the power imbalance remains largely intact, and that advances at a structural / institutional level are as yet, and because of this, mostly embryonic and fragile.²⁶

Locating Aboriginal agency in cross-cultural communication strategies

²⁵ It is instructive that a memorable insight of Ann McGrath's about the underlying effects of power on her Aboriginal subjects was achieved by reflecting on their treatment of her (that is, the apparent power effects which their encounter triggered) as opposed to the interviews she conducted with them about the past:

It is difficult to decide whether apparent respect was merely an outward show of behaviour to satisfy European demands. When I (a white woman) asked a group of women at Moongoong Darwung for some assistance, they responded as if I was an authoritative boss figure, calling me missus, offering me their only mug for tea, the chair normally reserved for an old man with high status, and later the front seat position in a utility truck while they all sat in the back. They agreed to comply with my requests even though I later discovered that due to other commitments, they could not actually do so. I should have realised that a likely cause for their extreme hesitancy to say 'no' to the request of a white person was past station experiences, where this was considered 'cheeky' behaviour. All whites represented authority, but not all had to be obeyed (McGrath 1987:101).

²⁶ To this should be added the observation that at a structural / institutional level the interests of the dominant are always potentially hostile to those of minority/subordinate groups.

Importantly, nothing in the models of Foucault, Goffman, Liberman and Scott precludes the existence of relations based on consensus or collaboration between the two sides. These models all locate agency in the actions of the less powerful, rather than envisaging them as passive victims of power. Liberman's formulation locates agency in the actions of Aboriginal people towards Europeans primarily in culturally- and historically-influenced strategies of interpersonal communication. Yet this realm of interpersonal communication is also the most vulnerable and power-laden aspect of the broader relations between black and white. Aboriginal responses to Euro-Australians, at once both passively resistant and pre-emptively withdrawing, reflect a keen sense of the strategic ambiguities of the encounters. Scott also locates agency in intercultural communication, although, in advancing a generic model of power relations, he backgrounds the role of cultural factors. His model of public and hidden transcripts, along with Goffman's 'expression games' (which is similarly acultural in its emphasis), allows us to focus more centrally on the strategic 'rules' of interaction.

Overlooking the effects of power and cultural difference

It is perhaps a moot point how ingenuous accounts, such as that of the Duracks discussed above, might be in omitting reference to the treatment and killing of Aboriginal people by whites.²⁷ Nevertheless, the models allow us to begin to see how whites could conduct relations with Aboriginal people without consciously perceiving the problematic effects of power and cultural difference on intercultural relations. Instead whites often see the problems of interactions as based in inferior, innate traits

²⁷ It appears likely that the extent of violence and killing in frontier areas was kept from white women, who were relatively few in number in such areas (Watson 1998:111), although Kings in Grass Castles published in 1959, indicates that Mary Durack was aware of widespread killings (for example, see 1974[1959]:137-40).

of Aboriginal people in general, for example, in seeing Aboriginal use of language as indicating inarticulateness or lack of logic (Eades 1988:106) or as 'shy, ignorant, slow and uncooperative' behaviour (1988:13). There seems no limit to the degree to which whites continue, as in the past, to stereotype Aboriginal people in negative terms while refusing to see or acknowledge their own complicity in the interactional 'problems' which beset intercultural relations. In other words, we can see how in cross-cultural interaction as well as in Euro-Australian social discourse, 'race' issues can be effectively invisible to whites, whilst remaining a significant factor in determining the nature of their attitudes and responses.

Aboriginal responses to power: gratuitous concurrence and other 'weapons of the weak'

The problems inherent in 'reading' the 'hidden transcript' are precisely those which leave open to the weak the use of non-confrontationist strategies²⁸ in dealings with the powerful. These include such things as deception, dissimulation, gratuitous responses, feigned ignorance, the postponement of decision-making or being unavailable for meetings. Uncertainty or indeterminacy creates interpretational dilemmas which the interpreter may respond to by more direct questioning or, where dissemblance is suspected, by the use of uncovering moves. The weak can subvert such attempts through a façade of outward compliance or by giving the powerful the answers they appear to want or expect without feeling bound by the outcomes.

As we have seen, in the past whites have been aware of the problematic nature of Aboriginal responses and have employed their own performance of power and rules for

²⁸ These include a range of behaviours related to cross-cultural communication as well as acts of passive resistance such as pilfering, foot dragging, and false compliance. Obviously it is the former that concerns us here.

treating blacks in mitigation of the potential or actual subversion of the relationship. In doing so, Aboriginal action was interpreted by whites as the manifestation of inferior, innate traits – as laziness, treachery, deceit etc. Scott noted a similar reaction to the everyday resistances of the rural peasantry in Malaysia:

In any event, most of their efforts will be seen by appropriating classes as truculence, deceit, shirking, pilfering, arrogance – in short, all the labels intended to denigrate the many faces of resistance (1985:101).

However, in denigrating 'the many faces of resistance' whites fail to perceive the cultural basis of Aboriginal behaviour and language use and, additionally, those aspects which are universal to human communication. One example which covers both of these conditions is the phenomenon of 'gratuitous concurrence'. Liberman notes that gratuitous concurrence is

...a structural feature designed to encourage the development of the conversation. It may in part be a way to fill the empty space of a turn of talk or it may be one method for producing an ambience of congeniality in the interaction, but its primary function is to permit the conversation to continue toward its communicative result without an interruption which would place the anticipated solution in jeopardy. Also, gratuitous concurrence is a frequent strategy of oppressed peoples, who utilise such facile assent to placate those they fear and to avoid confrontation (1985:198).

This dual role of gratuitous concurrence as both a structural feature of normal conversation and as a strategy of oppressed people is significant in understanding why whites are often blind to the power contingent nature of Aboriginal responses. In fact, it is precisely because of such myopia that gratuitous concurrence works as a strategy for Aboriginal people - it is at once both a normal social behaviour and also fulfills the need for a 'public transcript' which acknowledges the relative status of the

interlocutors. For example, when Lloyd Fogarty questioned custodians about the request for registration of sacred sites on his land, their gratuitous denials of any knowledge about the registrations was readily accepted by him and used as evidence that the registrations were suspect.²⁹ In that example, the gratuitous replies of custodians avoided the potential for confrontation with Lloyd.

It should be noted that such strategies are not the preserve of the weak only, but may, along with accentuated revealment and other coercive behaviours, for example, also be employed by the powerful. This opens up another area of inquiry which there is not space to develop fully here – the potential for whites to manipulate cross-cultural encounters so that desired outcomes are achieved. However, some indication of this potential will be seen in the case studies in Chapter 12 below.

Euro-Australian ignorance of cultural difference

Despite a focus in this thesis on covertly conflictual relations, we must also be mindful that problems in cross-cultural communication may not be the result of any intentional strategy to influence or subvert outcomes, but are often caused by genuine inability to understand or to communicate effectively due to significant cultural differences, particularly in language and norms of interpersonal behaviour. Liberman, Eades, Harris, Christie, von Sturmer, Bain and others have contributed much to understanding the ways in which genuine misunderstanding can occur, including conceptual and epistemological differences, differences in ways of seeking information and views and of presenting information.

The above discussion suggests that the 'hidden' transcript has further dimensions than

²⁹ Interview with Lloyd Fogarty, 8 June 1995.

simply those related to power. Liberman, Bain and Eades introduce the cultural dimensions of the 'hidden' transcript related to differences in language, epistemological concepts, cultural modes of behaviour and norms of questioning and information exchange. Thus, the hidden transcript is made up of information about the other and the other's responses which is unavailable because of both conscious and unconscious actions which have rendered it so, and as a result of ignorance and misinterpretation.

6.5. Conclusion: Power, cultural difference and the interpretation of Aboriginal responses

This chapter has outlined the central significance of cross-cultural communication in mediating intercultural relations, and the importance of power, cultural difference and strategic action in communicative processes. From the perspective of a non-Indigenous questioner, for example, a major problem is the accurate analysis of the answers given, or not given, as the case may be. For example, where questioning elicits a response of silence or an apparent reluctance or avoidance in answering questions there may be a number of reasons why such responses are given. The simplest reason may be that the question was misunderstood, but generally the cause is more complex, involving both cultural and contextual issues. In cross-cultural situations such as meetings or consultations, questions directed at individuals are likely to make them feel embarrassed and self-conscious (Liberman 1985:220-1, von Sturmer 1980:21), and they are unlikely to respond if it means pre-empting the consensual flow of the group. Aboriginal participants may also not speak out or at any length despite the fact that they may have knowledge of or an opinion about the matters under discussion. This may be because those present do not want to be seen

to be 'taking the lead', but there are also many other possible reasons why someone may not speak up. The information sought may be culturally restricted or otherwise subject to rights of ownership or transmission, for example. Even if those with appropriate authority over the information are present, they may simply choose not to reveal it - a prerogative I have often observed being exercised by Aboriginal custodians regarding sacred sites. Or perhaps the structure or composition of the interaction is culturally inappropriate, for example, if, in a mixed-gender context, gender-restricted issues are discussed or alluded to (see Chapters 10 and 11). Information sought which would require speaking about other individuals is also unlikely to be provided. A further cause may be a reluctance to challenge or repudiate statements or questions made by whites - a common phenomenon in remote areas such as the VRD, resulting from individual and collective experience of race relations with whites. Failure to respond to questioning may be a strategy to avoid engagement in an issue or, alternatively, it may act as a protection against an unwanted outcome (Lieberman 1985:214). So it can be seen that a single behaviour - in this instance a lack of response - may be the result of influences variously related to cultural difference, power relations or technical competence. A common reason why such uncertainty is often difficult for whites to penetrate is that there is usually a more convenient and attractive explanation at hand which many whites in cross-cultural contexts readily grab - for instance, that such silence represents the tacit approval or understanding of those present.

This chapter has pointed to the contemporary relevance of issues relating to power and cultural difference on cross-cultural interaction in the current context of continuing social and cultural separation. However, before examining the contemporary context further we need to return to the pastoral era and trace the changes which heralded the transformation of Aboriginal identity from that of 'station black' to a new focus on cultural survival and autonomy - the role of 'Aboriginal custodian' (and traditional owner).

PART 4:

PASTORAL RELATIONS IN THE VRD:

FROM ‘STATION BLACK’ TO

‘ABORIGINAL CUSTODIAN’

CHAPTER 7: AN 'UNWRITTEN CONTRACT': COEXISTENCE ON AUVERGNE STATION, 1930-1972

7.1. Introduction

In order to establish the veracity and implications of this nexus of power and behaviour we must step back in time and briefly retrace the sequence of formations of intercultural relations which preceded the heritage era. However, here there is far from consensus on the nature of past relations, with contrasting views highlighting, on the one hand, relations of coercion and exploitation (eg, Berndt & Berndt 1987, Rose 1991), and on the other, the existence of collaboration and relative harmony (eg McGrath 1987) between blacks and whites on the stations. McGrath summarised her account of conditions between 1910 and 1940 as 'a relatively stable time, sometimes considered by Aborigines a 'Golden Age' – 'before grog, before wages, before the Japanee war"' (1987:x). Frances and Howard Morphy (1984) theorised similar 'Golden Age' perspectives as enshrining the wisdom of their survival achieved by 'coming in' to the stations and cooperating with whites in the 'pacification' of 'wild blacks'.

A problem which this thesis identifies in relation to 'Golden Age' remembrances is that these can be found in relation to virtually any part of the pastoral era – and not simply regarding pre-WW2 times, as McGrath's work has suggested. What is common to such remembrances is a temporal structure which bookends 'Golden Age' experiences between problematic periods of transition into and/or out of a relatively stable station-based existence. This places such remembrances anywhere in a period from the early 1900s to the mid-1960s. Obviously, a sixty odd year timeframe suggests that generational effects could also be significant, reflecting a person's period of association with, and experience of, the stations. McGrath's 1910 to 1940 period of

study obviously relied on an older generation to those whose working lives were predominantly in the post-war period (see also below). Even McGrath's use of the phrase 'before wages, before grog, before the Japanee War' raises as significant, historical events and social change which occurred some twenty five years after 1940. Equally, it can be observed that accounts which foreground coercion and exploitation, such as those of Rose and the Berndts', can be found in reference to any part of the pastoral era.

This is not to suggest that there were no significant changes over the period, in policy or relating to events such as WW2, which impacted on and were responded to by Aboriginal people. Clearly, as Rowse's recent account of the history of rationing relations and associated/subsequent Indigenous affairs policy has ably shown, such changes did have significant effects (Rowse 1998). But here again, it can be noted that rationing as a mode of government over Aboriginal people on stations spanned the pastoral era from the 1890s and that the most significant change over this period came with the concurrent demise of both in the 1960s.

Rowse shows us that throughout the period of rationing Aboriginal people were largely unaware of the policy details and debate that affected their lives but were keenly attuned to the significance and potentialities of relations with whites in positions of authority. His findings recall examples from an earlier chapter where VRD custodians emphasised the effects on intercultural relations in considering their own wishes and rights to protect sacred sites from non-Indigenous impacts. This *real politik* of the VRD directs our attention towards the need for an analysis that addresses the common pre-conditions of intercultural relations across the entire pastoral era. The preceding chapter has laid out much of the groundwork of such a project but these findings now need to be applied to the particular history of the study area.

Both Aboriginal and European accounts from the VRD and other parts of northern and central Australia suggest at times a coexistence of Aboriginal and pastoralists' rights on pastoral lands. In these areas, contemporary Aboriginal socio-cultural systems and their constituent cultural landscapes have developed alongside, and to some degree in conjunction with, the pastoral industry. In many areas this shared history of pastoralism resulted in common understandings and practices which, while not necessarily based on an adequate understanding of the cultural 'other', nevertheless indicate that the notion of cultural coexistence was essentially a given for both sides. Moreover, a condition of this coexistence was that Aboriginal cultural use of, and attachment to, pastoral land, though in many ways poorly understood by pastoralists, was largely accepted by them and in some respects seen as useful to station economies.¹

This chapter examines the conditions and underlying assumptions of this former taken-for-granted coexistence on Auvergne Pastoral Lease, particularly in the post WWII period up to the early 1970s. The example is one which, to some extent, appears to represent an exception to conditions on most other stations in the region, mainly because of Auvergne's place in the constellation of Durack-owned stations which 'had established oases of relative peace' in a violence-torn frontier (Shaw 1981:15). Auvergne was in Durack hands for over half a century from 1897 to 1950. Yet at the same time, Auvergne also reflected the broader conditions of station life, built on the manifest inequalities in black-white relations. And despite the patronage of the Duracks, Auvergne was not without experience of cruel and brutal managers. Auvergne thus illustrates two premises of the pastoral era: firstly, that the often idiosyncratic attitudes and practices of individual pastoralists determined the material and social conditions of Aboriginal station communities; and, secondly, that

¹ Former Aboriginal station workers, however, maintain that it was their knowledge, skills and work which 'grew up' the stations (McGrath 1987, Baker 1999).

intercultural relations on the stations assumed the social positioning of Aboriginal people below that of whites. Such social Darwinist thinking fundamentally limited the potential of intercultural personal relations between the two sides. Ultimately, any assumption of coexisting European and Indigenous rights over pastoral lands rests on the bedrock of the conditions of such relations, and it is towards a better understanding of these relations that this chapter is focused.

The chapter also necessarily explores the relationship between Aboriginal and non-Indigenous cultural landscapes and their constituent cultural domains. These have been both influenced by, and in turn have influenced, the nature of intercultural relations. In the current Australian political climate surrounding the issues of native title and reconciliation, opinion remains deeply divided about the history, relevance and impact of such relations with respect to existing pastoral leases. Here I develop the argument articulated in the previous chapter, that the maintenance of separate cultural domains was an essential element of the structure of pastoralism in the VRD, serving the interests of both pastoralists and Aboriginal station communities. The roles of cultural landscapes and cultural domains are central to understanding past intercultural relations and are similarly central to any reconciling of Aboriginal and non-Indigenous interests in the present.

Auvergne and other stations in the VRD

Two aspects regarding Auvergne Station are worth noting at this point. The first is that Auvergne, along with many other stations taken up in the early days of European invasion, changed considerably in size over the years and is currently only a fraction of its former size. Therefore, references to Auvergne in historical and oral sources reflect

the extent of its boundaries at the time.²

Secondly, the vast size of stations meant that they were commonly culturally diverse, both in terms of the traditional countries which individual stations covered and as a result of Aboriginal people from outlying areas drawn to stations for a variety of reasons. On its immediate boundaries Auvergne fronts Jaminjung country across the Victoria River to its north; Ngaliwurru country towards Timber Creek to the east; Gadgerong country across the Baines Rivers along its north-western boundary; Mirriuwung country to the west and Ngarinman country to the south. Many different groups converged or interacted for work, when moving between station and 'bush' groups, during large corporate ceremonial gatherings, or while en-route between different communities. The station's proximity to the regional supply centres at the Old Depot and later, the township of Timber Creek³; and its position on the route of the main road linking the Territory and Western Australia, also brought many other groups in contact with the station. An example of this diversity was given by Laurie Roberts in naming the different groups who used to camp upstream from the homestead during major ceremonial gatherings in the 1950s and 60s:

We used to camp all around here - big mob from everywhere, Gadgerong, Mudbara, Ngarinman, Nyinin, Kija and Jaru. Lot of people. Mirriuwung, Payinparrung (Wyndham way), Murinbatha, Jamarri (Daly River way), Ngaliwurru/Nungali mix. All here. Big ceremony here.⁴

Cultural diversity was also reflected in the composition of the station community and workforce, which included families from the many surrounding groups and from far

² For instance, the town of Timber Creek was once part of Auvergne, as were Amanbidji (Kildurk) and Bullita Pastoral Leases (the latter was subsequently incorporated into Gregory National Park).

³ The Depot, Police Station and later the township, were located within Auvergne's boundaries until 1932 when Auvergne surrendered 60 square miles for the establishment of Timber Creek commonage (Bauman et al. 1984:80).

⁴ Interview with Laurie Roberts, 1995.

away as the Daly River.⁵

7.2. An overview of intercultural relations in the VRD

European pastoral occupation of the VRD, dating from the early 1880s, was achieved through the dispossession and subjugation of local Indigenous groups and the incorporation of surviving members as rationed Aboriginal labour on which the stations were dependent for their viability.⁶ In 1929, J.W. Bleakley reported to the government that 'the pastoral industry is absolutely dependent on the blacks for the labour, domestic and field, necessary to carry on.' (Bleakley 1929:7). This situation continued for the next four decades before encountering changes which led to the severing of this connection and the establishment of a new structure of relations which continues to characterise the contemporary scene (see Chapter 8). This chapter draws on the four decades from about 1930, and particularly after the Second World War, by which time most of the local Aboriginal population was attached to station homesteads, under the control of white managers. For the most part stations in the VRD and East Kimberley employed local Aboriginal people and it is their relationship with the stations that most concerns us here.⁷

⁵ Interview with Lloyd Fogarty, 1995.

⁶ For perspectives of Aboriginal involvement with stations in the VRD, see Rose 1991, Berndt and Berndt 1987, Riddett 1988, McGrath 1987, Schultz and Lewis 1995, Ogden 1989, as well as some of the east Kimberly focused work of Shaw. Aboriginal systems of land tenure and social organisation, though disrupted by pastoral occupation, continued to operate through station communities. These communities comprised a core of members of locally affiliated language groups living together in concentrations and mixtures not previously experienced. The community on Auvergne Station, for instance, comprised mainly Ngarinman people, along with others from adjoining groups (Ngaliwurru, Jaminjung, Gadjerong, Mirriuwung etc.) and from the Daly River area.

⁷ In some instances pastoralists adopted a strategy of employing non-local Aborigines, one result of which was to alienate those so employed from their traditional country. This does not seem to have been common on stations in the VRD, but see for example, Ogden 1989.

My intention is to sketch a genealogy of coercive and repressive practices toward Aboriginal station workers in the VRD. I do so not to emphasise such aspects of the relations but rather in order to substantiate the contention that Aboriginal responses to intercultural relations and the possibilities for reciprocal outcomes and cultural coexistence were framed by the *potentialities* of violence, coercion and physical deprivation. Underlying such potentiality was the fact that cross-cultural relationships, although in some cases long-lasting, were for the most part ephemeral. Against this reality, goodwill was a commodity that evaporated with the passing of each relationship and so had to be re-established and reaffirmed time and time again.

An historical sequence of intercultural relations

An initial task is to briefly survey the history of intercultural relations in the VRD in order to situate and inform the period of coexistence under examination. This history shows a sequence of distinct though often overlapping phases of interaction which are briefly summarised below. The schema emphasises the major phases of contact experience with the pastoral industry in the VRD⁸ – taking into account that actual experience varied over time, place and circumstance. This meant that some phases occurred concurrently, often presenting contradictory imperatives for Aboriginal people and resulting in complex patterns of interaction.

1) Killing Times.⁹

⁸ For discussion of use of the term 'times' see Baker 1991:61. Anthropologists have proposed other schemes which have emphasised in different ways Indigenous responses to Europeans (eg, Elkin 1951; Hamilton 1972).

⁹ Aboriginal people in the VRD sometimes refer to this period as the 'Wild Time'. Baker (1999) also notes use of this term by Yanyuwa people in the Borroloola area.

An initial period of conflict and confrontation with little or no communicative interaction between the Aboriginal and European domains, and characterised by violent clashes and retaliations. During this period there is also evidence of a continuance of 'blackfellow wars' between some Aboriginal groups, which evidently pre-dated European arrival in the area. This internal Aboriginal conflict appears to have been exacerbated by the presence of Europeans and seems to have abated by about 1919 (Rose 1991:101-18).

2) *'Coming In'*.¹⁰

'Coming In' refers to a transitional stage which saw the beginnings of non-violent interaction between the stations and some Aborigines on the one hand (induced by circumstances of economic necessity caused by the appropriation and degradation of ecological resources, the need for protection from retaliatory raids by whites, and by interest in and desire for European goods), and on the other, continued conflict and confrontation with those who chose to resist European occupation and who remained away from the stations. There appears to have been considerable movement in and out of the stations by members of these two groups. This period saw the beginnings of the exploitation of Aboriginal labour in return for goods and protection from pastoralists, and a gradual acquisition of knowledge about pastoralism by Aboriginal groups.

3) *Cattle Times*.

¹⁰ Baker (1999) discusses the complexity of this term, noting that 'Different groups came in for different reasons, at different times and in different places' and listing seven categories of economic and social reasons for 'coming in' in the Borroloola area (1999:127-159). Importantly there were both voluntary and coercive aspects to the process. Other writers have also pointed to Aboriginal agency in processes of 'coming in' in various parts of northern and central Australia (see for example Anderson 1983, McGrath 1987, Rowse 1987, Stanner 1979).

The continued expansion of the territorial control of the stations together with the eventual success of punitive actions by the police and pastoralists eventually resulted in the incorporation of virtually all local Aboriginal people as either station workers or dependents, living on the stations generally under exploitative and sometimes brutal conditions. This period also saw Aboriginal people consolidate their incorporation of pastoralism and station life into the Aboriginal domain, while at the same time being able to retain a significant degree of cultural independence. The latter was facilitated by the institution of lay-offs or 'holidays' during the tropical wet season when pastoral work became impractical, and through the practice of maintaining secrecy about religious practices and their association with the land. Covering a period from about the turn of the century to the late 1960s (on some stations, till the late 1970s), the latter part of this period established, perhaps more than any other, a pattern of cross-cultural relations which continues to influence the nature of contemporary relations in the VRD.

4) Breaking Away.

The 1960s saw the beginnings of the movement of Aboriginal people away from a station-controlled existence to newly-formed independent Aboriginal communities, many of which were nonetheless located within the boundaries of pastoral stations on land excised from them. The movement was hastened by the introduction of award wages for Aboriginal pastoral workers and increased citizenship rights for all Aboriginal people in the 1960s. In the VRD, the Aboriginal walk-off from Wave Hill Station in 1966 focused national attention on Aboriginal aspirations for their own land and the need for government support to establish new independent communities.¹¹ This period saw a significant increase in government intervention into Aboriginal housing and welfare, replacing the previous administration of these areas by station management. The

¹¹ See below in Chapter 8.

policy framework of government intervention was assimilatory, seeking the development of Aboriginal communities according to European standards.

5) Cultural Reassertion.

The period from the late 1970s to the present saw the introduction in the Northern Territory of land rights and sacred sites legislation and the parallel establishment of Aboriginal land councils, community resource centres and other local Aboriginal organisations. This period was heralded by an official change in government policy towards Indigenous affairs from assimilation to self-determination. These changes have resulted in a reconfiguration of race relations by providing a set of independent structures around which new expressions of Aboriginal action and non-Indigenous reaction have focused. The strength of the latter has also been influenced by the granting of limited self-government to the Northern Territory in 1978 and the subsequent politicisation of the community along racial lines which has accompanied this.

Such chronologies, however detailed, tell only a fraction of the story of the history of race relations. Importantly, while indicating considerable social change and resulting changes to the structures and forms of intercultural relations over the 120 year period of European presence in the area, the chronology does not tell us if there has been any substantive change in the underlying relations of power between the two groups. Chronologies are also unable to reflect spatial and temporal unevenness in conditions and processes of change – an aspect which is essential to understanding the nature of Aboriginal responses. Finally, such a chronology does not attempt to address Aboriginal perspectives of the history of relations on pastoral leases. To answer these questions we must turn to the records and remembrances of those on either side of the cultural divide. The following sections provide a framework for discussion of the first three phases ('Killing Times', 'Coming In' and 'Cattle Times') in order to establish the

conditions of the coexistence which characterised the latter period of the Cattle Times on Auvergne Station. Chapter 8 will examine the issue of the changes in relations which accompanied the movement of Aboriginal people away from a station-based existence ('Breaking Away' and 'Cultural Reassertion').

Killing Times

European stocking of the VRD and East Kimberley in the 1880s instigated a brutal but relatively short-lived phase of open conflict with Aboriginal groups which traditionally occupied the land, and which strongly resisted European intrusion. Auvergne was taken up in 1886 by a J. A. McCartney, and in its first five years 'had already acquired a name for tragedy...after the violent death or grave misfortune of at least half a dozen managers' (Durack 1959:318). The length of such hostilities varied, but was at least ten years in some areas, such as Victoria River Downs.¹²

In these early years of Auvergne, losses to Aboriginal groups from 'dispersals', retaliatory raids by whites and introduced diseases were severe¹³ - so much so that the Nyuwanung, a group occupying the rich pasture country of the flat, open grasslands fringing the West Baines River, were decimated to such an extent that little is remembered of them by local Aboriginal people today.¹⁴ The Nyuwanung were 'river people', sandwiched by the Ngarginman to the south and the Gadgerong to the north, probably preventing Nyuwanung access to the Newcastle and Pinkerton Ranges as

¹² See, for example, the quote from the Victoria River Downs manager in Chapter 2.

¹³ During the decades of the 1880s and 90s similar decimations of Aboriginal populations were occurring in other areas of the pastoral frontier in northern and central Australia. See, for example, Watson 1998.

¹⁴ This is not so surprising in that memory of individuals usually extends back only two or three generations, by which time any Nyuwanang survivors would have been incorporated into viable groups to which they had affiliations and would have come to identify themselves in terms of the names of such groups.

refuges from European punitive raids. Rose notes Ngarinman accounts in which the Nyuwanung are remembered as 'cannibals' who were at war with the Ngarinman and whose demise was achieved variously, by the Ngarinman themselves or by European massacres (Rose 1991:113-4).¹⁵

It seems that the fate of the Nyuwanung was avoided by neighbouring groups through their ability to retreat to refuge areas in the rugged sandstone hills.¹⁶ Nevertheless, the composition of contemporary land-holding groups for all of these areas suggests that population losses due to violence and disease was still very considerable - requiring a series of successions and mergings in order to maintain coherent land-holding groups.¹⁷ By the time the Duracks acquired Auvergne in 1897 much of the initial 'pacification' of local Aboriginal groups was complete.

'Coming In'

The process of 'coming in' to the stations was a gradual and complex one which, it has been suggested, was accompanied by considerable movement back and forth between the 'station blacks' and 'bush blacks' who chose to continue a traditional lifestyle beyond the reach of the station managers. Shaw makes the point that the level of mobility between the two meant that such categorisation by whites was 'arbitrary and frequently inaccurate' (1986:5). Moreover, the significant extent of the covert accommodation of and cooperation in relations and movement between station-based

¹⁵ Bobby Witiitjpuru was one of Rose's informants. Bobby also explained to me that the Nyuwanung were: 'Riverside people, bush people, kill him people, eat him up, roast him. White man killed him up' (fieldnotes of the author).

¹⁶ The case of the Nyuwanung was similar to the Karangpurru, occupying open plain country of the Victoria River to the southeast. With no refuge areas available the Karangpurru were decimated in the first ten years of European occupation (Rose 1992:75-78).

¹⁷ See, for example, Bauman et al. 1984; Rose 1991.

and 'myall' groups indicates a coordinated strategy in dealing with an imposed European hegemony:

...station communities often assisted off-station relatives to avoid dangerous meetings with white managers, stockmen and police. Indeed, Aboriginal society in those years had a kind of 'underground' and in many cases a highly efficient intelligence network. These terms are chosen with care, for the situation was in many respects analogous to war. The killing of uncounted Aborigines, the cunning and viciousness of European and 'native' police, and the keeping of women and children virtually as hostages were the first steps in a policy which established semi-feudal patronage on cattle stations (Shaw 1981:18).

Shaw's choice of words also fits with evidence of considerable conflict in internal Aboriginal relations associated with issues of collaboration and self-preservation similar to that experienced by populations in other forcibly occupied territories, such as in France during the Second World War.

The timing of this phase varied somewhat from place to place but was still occurring on Auvergne in the early 1930s when cattle spearings by bush blacks was recorded as a serious problem on a number of stations (McGrath 1987:14¹⁸). During this time 'the region was still being 'tamed' with the gun, horse, chain and dog' (Shaw 1981:15). To this arsenal should be added the stockwhip and the stick. On the stations the white manager had total control over the treatment and conditions of Aboriginal workers and their dependents. Bobby Witiitjpuru described the actions of Harry Shadforth, one of the managers of Auvergne around this time:

He had American handcuff all the time before. He sort of looked like a policeman - he had his private gear. Neck chain, one thing. Well, they used to can't work [when an Aboriginal worker didn't work], alright, somebody come up

¹⁸ However, see also Richards (1982), who observes that the serious drought in the region in the late 1920s not only sparked an upsurge in cattle spearings but also rendered the option of staying out of the stations an even more difficult one.

*tell him, some white man, you know, 'he can't work for me'. Alright, 'tell him come up here' [Shadforth said]. Alright, boy go up and grab him, tie him up and, you know, 'you never work for that man'. Get a big stick and whack him up, belt him up. Give it a good hiding. Poor bala, you know, no good! He proper bad man.*¹⁹

Bobby qualified this story by explaining that Aboriginal workers on Auvergne used to appeal directly to M.P. ('Umpy') Durack about vicious managers and that Durack could be relied upon to 'hunt them away'. That no such appeal appears to have been made about Shadforth,²⁰ then, speaks volumes about the accepted standards of treatment of Aboriginal people at the time and the endurance of such standards by Aboriginal people.

Aboriginal endurance of such treatment has to be evaluated against the potential for more brutal treatment to occur. Of significance here is the fact that during this period the fear of punitive massacres remained. In 1926 fear became a reality when, in retaliation for the spearing of a white man called Hay, police killed a large number of Aboriginal people near Forrest River in the East Kimberley (see Shaw 1981, Rowley 1970). The massacre is said to have decimated the Gadgerong who, it will be recalled, occupied country which adjoins Auvergne's north-western boundary. Then, in 1928 a further widely reported massacre of Aboriginal people occurred near Conniston Station (to the south of the VRD), in retaliation for the killing of a white prospector. While these

¹⁹ Bobby Wititjuru interviewed by John Fletcher, 8/9/87; TP591. Bobby's account also indicates the use of other Aborigines to help carry out punishments ('boy go up and grab him').

²⁰ Tom Ronan, a contemporary of Shadforth's and a fellow VRD resident, provided a European assessment of the man:

Harry Shadforth was one of the toughest propositions I ever worked with. Yet he got results. He was one of the last upholders of the old tradition. Bitterly allergic to Aborigines – his eldest brother had been murdered by one – yet he had a magnificent code of justice towards them. He might knock one or two of them down for insolence, carelessness, or laziness. He insisted that every white man be addressed or referred to as Mister, but those Auvergne stock-boys were well clothed, well fed, and had practically unlimited stocks of tobacco (Ronan 1966:222).

incidents have been described as turning points for Aboriginal-European relations, it is also likely that they had much longer term after-effects in perpetuating fear of a similar fate amongst Aboriginal communities throughout the region.²¹

Cattle Times

The period from the 1930s is without recorded incidents of massacres in the VRD and East Kimberley, but nonetheless was characterised on most stations by racist, authoritarian and neglectful treatment of Aboriginal workers and their dependants as well as the continued sexual exploitation of Aboriginal women. Violence remained as an actual or threatened means of control of Aboriginal workers with the possibility of murder as the ultimate penalty. As Rose notes: 'People who taught their children never to argue or fight back had death on their minds' (1992:167). Such fear was well founded. For example, Markus (1994) refers to accounts of two unprovoked murders of a young Aboriginal station worker and an Aboriginal tracker by white station employees in the north-west of Western Australia in the early and late 1930s. Rose (1991) includes an account of the unreported murder of an Aboriginal 'boy' by white station workers on VRD Station some time after the Second World War. Such incidents were rarely officially documented, protected as they were by a 'conspiracy of silence'²² amongst Europeans.

But this was not always the case for what were regarded as less severe and acceptable practices in the treatment of Aboriginal people. In 1947, Patrol Officer

²¹ Rowse (1998:54-55) notes that the settlement structure in the North-west patrol area (which takes in the Tanami just south of the VRD) in the early 1930s 'possibly reflects a more tense and unsettled relationship between the colonists and the colonised of the north-western area in the years after the 1928 Conniston massacre'.

²² Durack 1959:286. See also Rose 1991:20-23; Reynolds 1998.

Sweeney reported conditions on Coolibah Station near Timber Creek. Two pumps which pumped water for the station from the Victoria River were each worked by two Aboriginal workers who hand pumped

*from before sunrise to sunset with time off for meals, seven days a week. Mr Quilty [the manager] is still having trouble with his working natives running away from the station. Two of the natives on the hand pumps were on punishment for going walkabout without the manager's permission. Two lubras were shut up each night in a store building and not permitted to camp with their husbands in the camp because they had previously run away from the station. Constable Stott had recently returned one boy to the station who had left the station.*²³

Quilty's Aboriginal workers, who were brought with him when he moved from nearby Bradshaw Station, regarded him as a 'hard master'²⁴. But conditions were nothing unusual according to Quilty's son, who answered Sweeney's concern about conditions on Coolibah by stating that they 'treated the natives the same as they are treated on other stations' (Sweeney 1947). Wason Byers, a contemporary and friend of Quilty's, epitomised the authoritarian and often cruel nature of the treatment of station blacks. On one occasion in the Kimberleys, annoyed by the noise of didgeridu playing through the night, Byers made one of the players get up on a post and made him play all day, shooting at him if he stopped. At another time he is reported to have made the station lubras sit naked on the hot corrugated iron roof of the homestead in the middle of the day. 'He also fired shots between the feet of an Aborigine to make him jump and, flicked a stockwhip on the ground by a lubra's feet for the same reason and chained his Aborigines around the neck' (Ogden 1989:40). At another time in 1950, he recalled being annoyed at his sister-in-law's interference with the station Aborigines, and described his reaction on returning from a trip away: 'over comes this gin in a pair of high heeled shoes. You'd think she was going to appear in Hollywood or somewhere. I give her a boot up the arse (he laughed) and she fell over' (ibid :41).

²³ Sweeney 1947.

²⁴ See also Riddett 1988.

It is unsurprising, then, that Byers, like Quilty had problems with his workers running away. For instance, the Timber Creek Police Journal for 1st Dec 1953 records: 'telegram received from headquarters: 'Byers complains to Canberra eight station boys from Coolibah not returned after race...'.²⁵ Throughout the period the threat of assault by managers or other white station employees remained a constant force in modulating Aboriginal behaviour. Here again from the Timber Creek Police Journal on 4th October 1955: 'Patrol Officer Greenfield arrived at 8am. He stated that an Abo. Johnny had been assaulted by Ivan Jackson and Wilson of Newry Station. Flying Doctor and Pilot Humphries arrived at 3.15pm to airport and picked up same.' Injuries which required evacuation by the Flying Doctor must have been serious.²⁶

While such accounts say nothing about the attitudes and motivations of the Aboriginal people involved, they do indicate a great deal about the conditions of their treatment as well as the attitudes of those whites who controlled substantial aspects of their lives 'with little or no official intervention or concern' (Berndt & Berndt 1987:4). Unable to physically resist and liable to be forcibly returned by the police if they attempted to leave, their lives had few choices.

An equally bleak post-World War II snapshot was given by the account of

²⁵ The race referred to was the annual VRD races, which along with similar events at Timber Creek and some other locations, Aboriginal workers were often given permission to attend. Riddett noted that these events were used by the Aboriginal community to discuss traditional matters as well as conditions on the stations and to consider appropriate action (Riddett 1988:310).

²⁶ Similar incidents were recorded in other areas. For example, in 1955 Patrol Officer Macleod investigated the flogging of an Aboriginal worker with a hobble chain on a station near Katherine (Macleod 1997:40-41). Another incident in late 1955 involved the flogging with whips of a group of four fleeing Aboriginal workers by two white stockmen. The workers had fled Eva Downs Station (near Tennant Creek) because of previous floggings on the station. The white stockmen were eventually prosecuted after a patrol officer saw the wounds (1997:169). Baker (1999:114-115) refers to the whipping of a group of Yanyuwa and Garawa at Eva Downs in 1956, which he recorded from those who were whipped.

anthropologists Ronald and Catherine Berndt of conditions on pastoral stations nearby to the south and west of Auvergne (Berndt & Berndt 1987). Combined with Rose's account of conditions on VRD Station (which the Berndts did not survey), the picture which emerges catalogues a depressing regime of Aboriginal subjugation, of low morale, poor health and an alarming decline in fertility to an extent which fuelled concern about the prospects of survival of the station communities.²⁷

Those stations that treated Aboriginal workers humanely and fairly did so because of the personal disposition of the owner or manager. This meant that conditions on adjacent stations sometimes differed considerably. For instance, in 1945 the Berndts recorded the abject conditions of the Aboriginal community on the Vestey's-owned Waterloo Station (across the sandstone country south-west of Auvergne), noting their increased discontentment that on the neighbouring Rosewood Station Aboriginal workers were paid wages and had considerably better living conditions and food rations. Sweeney noted in his 1947 report that the owner of Rosewood, who had by that time recently sold the station, had given his Aboriginal workers 'a trip to Wyndham and a bonus'.²⁸ Auvergne seems to have fitted somewhere on the liberal side of the scale, being noted by Sweeney as one of the stations who are 'sincere in their intentions to do their part in implementing the conditions of the [Pastoral] Award when it becomes law'.²⁹

However, the place of men such as Hall, Shadforth, Byers and Quilty must be seen in context of the times – each was an accepted and respected member of the local non-

²⁷ The Berndts' survey was in fact commissioned by a large pastoral firm, Australian Investment Agency (AIM or more generally known as 'Vesteys'), whose primary concern was that the alarming decrease in Aboriginal populations on AIM (and other) stations threatened the future labour supply (Berndt & Berndt 1987:14-16). See also Rose 1991: Chapter 21.

²⁸ For an Aboriginal account of this incident see Shaw 1992:183-4.

²⁹ From 1949 all stations were required to pay wages to Aboriginal employees, although the Aboriginal Pastoral Award rates were set considerably lower than those for white workers.

Indigenous community, regarded as hard but fair men with respect to their treatment of the Aboriginal people in their employ and under their control. It is against such standards set by the non-Indigenous community, that apparent acceptance by Aboriginal workers of their conditions and enthusiasm for respectful, reciprocal relations with whites needs to be considered.

Selective remembrance

While the memory of such events is strong in the minds and oral cultures of local Aboriginal people, white Australian outback mythology remembers a different past; one that clings to remembrances of the benign paternalisms of a practical and self-evident settlement of pastoral country. In respect of the conditions of Aboriginal people, such remembrances foreground the post-War era of the 1950s and early 60s - a period in which the excesses of violence and exploitation had largely been displaced by relatively routinised, paternalistic practices. Aboriginal people too, care to hold on to good remembrances of a self-enclosed pastoral existence which, when it coincided with the presence of 'good' or sympathetic whites as bosses or co-workers provided the notional conditions for a coexistence and mutuality of interests. In reality, these lenses of good remembrances shifted considerably in time and space according to the kind or quality of the relationships which existed between white station managers and employees and Aboriginal workers (see below). What many such remembrances also share is a perspective framed by experience of a socially-troubled present.

The significance of individual life histories: the case of Bobby Witiipuru

The relatively recent contact history of the VRD and East Kimberley means that eye

witness accounts of all of the phases of contact relations have been recorded from individuals over the years by researchers. Individual life histories such as that of Bobby Witiitjpuru (recently deceased), who worked and lived most of his life on Auvergne,³⁰ are rich sources of information about the history of relations and about Aboriginal perspectives of the changes which have occurred over the years. Born approximately in 1915[?], Bobby spent his early years as a 'bush black' living away from the stations in the sandstone country on what is now Kildurk and Bullita Stations but at the time still part of Auvergne. At about eight years of age Bobby's father - apparently wrongly accused of the killing of a European³¹ - was shot by whites at an isolated waterhole in the sandstone country south of Kildurk. Following this incident Bobby was taken by his uncles (mother's brothers) down to the Depot on the Victoria River near the present town of Timber Creek from where he was later picked up by the manager of Auvergne at the request of one of Bobby's relatives who was already working on Auvergne. As Bobby describes:

*Old Harry Reid bin come and pick me up, la Depot. Got'im saddle and bridle and little pony from Auvergne Station. Come up and pick me up there.*³²

He was immediately inducted into station work, initially as the camp cook's assistant but followed soon after by work as horse-tailer and then stockwork. Initially he was so small that he had to first place the saddles on his head in order to get them on the

³⁰ Although not primarily related to the current Auvergne area, Bobby remained the rest of his life there, working on the station till he was too old for stockwork, the fact of which he often stated with considerable pride. And when he retired it was to Bulla, a community he was instrumental in establishing on the East Baines River upstream from Auvergne homestead through negotiation with the manager in 1973 (see below). Having married into the country (his wife is the daughter of a senior land-owner of Auvergne country) and having activated an interest to learn about and care for the area, Bobby came to be recognised as a principal custodian. The establishment of Bulla has been of particular significance for Aboriginal people traditionally associated with Auvergne country in that it enabled them to stay within the station and maintain access and continuity with it.

³¹ I have not been able to locate records of the killing.

³² Interview with Bobby Witiitjpurru 1994.

horses' backs. Bobby eventually became one of the most trusted workers on the station, at one stage operating the donkey wagon and being one of the few permitted to borrow guns to hunt game with.³³ He stayed on after his retirement from work until 1972 when most of the homestead camp moved to set up an independent community nearby (see Chapter 8).

Bobby's experience is particularly significant for this analysis of the conditions of the post-WW2 coexistence on stations in the VRD in that, besides having worked on Auvergne throughout the period in question, he also claimed to have had positive relations with most of the pastoralists he worked under. Accounts such as his, therefore, are likely to reveal 'best case' aspirations for, and assessment of, the relations Aboriginal people sought to establish with whites on the stations.

7.3. Coexistence on Auvergne: an 'unwritten contract'

An interesting formulation of the nature of coexistence on stations in the post-WW2 period has been given by Reg Durack, who managed Auvergne from 1944 to 1950.³⁴ Durack has commented that he took station Aborigines 'for granted' when first arrived in the area, and described what he termed an 'unwritten contract' between the stations and Aborigines. The contract pitted the advantages to Aboriginal workers of the opportunity to stay on their traditional lands, to have free access to it over the wet season 'holiday', the provision of rations and, interestingly, the nominal ownership of individual horses, against the requirement to 'be ready to put your feet in the stirrups

³³ However, Reg Durack, who managed Auvergne from 1944 to 1950, never let Aboriginal people handle a gun Interview with Enid Durack, NTAS TS629, 19/7/90, page 28.

³⁴ Interview with Enid Durack, NTAS TS629, 19/7/90.

on the first of April' (ie after the wet season 'holiday').³⁵

Durack's articulation of this relationship is especially significant in that it explicitly states his understanding of the broad conditions of the coexistence which existed at the time, particularly its recognition of continuing Aboriginal cultural attachment to the land. Pastoralists such as Durack had no reason to restrict traditional practices that didn't interfere with station work routines. Indeed, in some respects Aboriginal knowledge and cultural use of the land were valuable to the stations. Knowledge of the country and the ability to navigate through it, track and locate animals, and not get lost meant that Aboriginal people were more effective as stockworkers than whites (McGrath 1987, Baker 1999). In addition, the resident Aboriginal populations, which included the non-working family members of station workers, were seen as necessary sources of recruitment for station labour. Crucial to this arrangement was the ability of station Aborigines to live off the land during non-work periods and at other times supplement food rations with bush tucker - in other words, to augment marginal station economies by means of continued traditional economic use of the land.³⁶ Durack's articulation of the contract thus fails to acknowledge the significant contribution to station economies that Aboriginal cultural attachment to land and traditional bush skills provided.³⁷

³⁵ Interview with Reg Durack, NTAS TS452, 30/4/87, page 9. It is interesting that Durack interpreted Aboriginal relationships with horses so significantly. While it is apparent that former stockmen feel a strong sentimental attachment to horses (and other introduced working animals such as donkeys) this does not figure highly in their reminiscences of station coexistence.

³⁶ Pastoralists sought to protect their advantageous position with respect to station labour on a number of fronts. For instance, in 1947, Vesteys petitioned the government against the 'detrribalisation' of Aboriginal people and their attainment of cash wages and European-style services, arguing that the status quo provided the best means of control. Aboriginal people were no less unaware of the value of their labour and sometimes left jobs in protest over conditions or treatment, seeking work on other stations. Pastoralists tried to minimise such action by appealing to an unwritten code of practice whereby managers should not employ Aboriginal workers from other stations (Riddett, 1985: 202-203, 204; Durack 1974:315-16; Interview with Enid Durack, 1990:29).

³⁷ Henry Reynolds has noted:

Not only was European pastoral occupation not inconsistent with continued Aboriginal occupation, it totally depended on it. Black labour outnumbered white labour in places like north-western Queensland by five or six to one. Aboriginal bushcraft and knowledge

7.4. A separate Aboriginal domain

European ignorance of Aboriginal cultural domains

In other respects too, the former coexistence lacked recognition from whites about Aboriginal cultural matters. For instance, one of the things that struck me about the pattern of cultural coexistence in the VRD was that Europeans, even those most sympathetic to their Aboriginal workers, appear to have learned very little about the detail of Aboriginal cultural attachment to land. Pastoral managers of the time, despite sometimes many decades' experience with Aboriginal workers who were also traditionally affiliated with the stations, learnt virtually nothing about the location or significance of the sacred sites they lived and worked around. In contrast, they knew of 'corroborees' or initiation ceremonies, and were sometimes invited to witness some of these, but never acquired an adequate understanding of the significance of what they witnessed.³⁸

An example is Lloyd Fogarty who managed Auvergne from 1950 to the early 1980s.³⁹

In the matter of ceremony and ritual, for instance, Lloyd was occasionally asked for

of country made open ranching possible; their largely unpaid labour edged it into marginal profitability' (The Australian 28 February 1995, p5, quoted in Dodson 1995).

³⁸ Mary and Elizabeth Durack described the corroborees they were invited to as 'the usual somewhat monotonous procedure' (1940:60). Liberman (1985:246) comments that in north-western Australia 'Anglo-Australians recognised the existence of 'corroborees', [but] considered them more of a social affair [with] a role in Aboriginal life similar to that of Christmas'.

³⁹ In 1950 the AA Company bought out the holdings of Conner, Doherty and Durack, which included Auvergne, Ivanhoe, Argyle and Newry. Early the following year Mick Fogarty and his three sons, including Lloyd, came out from Queensland to manage Auvergne. In 1954 Lloyd took over managing Auvergne when his father moved to Argyle Station. Lloyd stayed with the company as manager and then as Pastoral Inspector and finally Regional Superintendent up to 1978 when the company's holdings were sold. He stayed on as manager of Auvergne for the new owners but left after a couple of years due to disagreements over management style. He is now retired in Timber Creek (Interview with Lloyd Fogarty 8/6/95).

assistance in its organisation and was invited along with other Europeans to certain public performances,⁴⁰ but was apparently never appraised of its relationship to sites and Dreamings on the station, or even, to any significant extent, of the existence of such sites:

...there was always big ceremonies, yeah. They'd invite us to come and witness the ceremonies, you know, the dancing and that. And, yes, they'd talk about the young man ceremonies and that and tell you, you know, what had to be done and get gear off you and that to do the job... They'd talk openly about all those sort of ceremonies, yes. And they had...what they call a ring place...they'd set up a place for that sort of thing and...there was no secrets about that. It was all accepted, And...they'd take a young fella away and walk him for a few hundred mile and bring him back and...they'd tell you why they had to do that, you know, [to] knock him up. And...they'd have different areas, the holiday camp, and they'd camp there...but they probably, they wouldn't do ceremonies there - they'd have a special - another area where they did ceremonies. But they didn't seem to mind...when that got littered up and everything, well, you'd probably take the bulldozer and dig a hole and push all the rubbish in and cover it up and nobody would worry about that - they were quite happy or they'd help you clean it up. There was never anything about - I never found out about - never heard anything about any sacred ground, even right up till I left there. There was no sacred trees, or waterholes or fenced off areas, or anything like [that] - never heard anything about it.⁴¹

While eschewing knowledge of sacred sites, Lloyd's account does at least confirm an acceptance of Aboriginal cultural use of the land and of cooperation with and knowledge of ceremonial activity. However, interestingly, former Aboriginal station employees, such as Bobby Wititjpuru, often assert that many pastoralists were told about sacred sites on pastoral leases. In the following Bobby identifies Lloyd as one who was told.

DC: You ever tell that manager anything about that different sacred site around the place?

⁴⁰ Interestingly, Enid Durack stated that she and her husband, Reg Durack (who managed Auvergne from 1944 to 1950), were never invited to a corroboree during their time there (Enid Durack interview, NTAS, TS629, 19/7/90, page 34).

⁴¹ Interview with Lloyd Fogarty, 1995. This is not an uncommon claim by pastoralists of the time. See, for example, interview with Ivor Hall, TS60/1:22.

BW: Oh, yeah, he bin know all the time. Lot of manager bin know.

DC: Like, Lloyd Fogarty?

BW: Yeah, all them. Lloyd Fogarty the main one too - he know all that. Lloyd Fogarty - Mick Fogarty - that's his father...And I bin work for old Durack - MP - he bin know all that too. He's a owner of ground - like owner the country - this Auvergne Station and Newry and Ivanhoe.

DC: You mob bin tell him where that sacred places eh?

BW: Yeah, they know! They don't come interfere, them old time people. They leave'im. That was holiday time - not work time!⁴²

How can we account for this discrepancy? While we cannot know the detail of what Lloyd was actually told about sites we can, through his own accounts glimpse some of the difficulties he experienced in understanding the cultural knowledge and information given to him. Another relevant issue is to examine exactly what Bobby means by the expression 'to know'. An interesting clue emerges from Bobby's commentary that 'they know...(T)hey don't...interfere...they leave him...that was holiday time - not work time' - in other words, he makes a clear distinction between the European domain of 'work time' and the Aboriginal domain of 'holiday time' - the latter being a period when cultural activities, including visiting sites, were carried out without interference from whites.⁴³ Bobby's statement thus articulates *his* understanding of Durack's 'unwritten contract', the most important aspect of which was Europeans' cooperation and non-interference with cultural matters. In this respect, for Bobby to assert that 'a lot of manager bin know' is a way of demonstrating that there was indeed a 'contract' or reciprocation of some sort with at least broadly understood terms but with many details not being communicated to pastoralists.

This analysis is supported by the fact that in other contexts, Lloyd's ignorance

⁴² Interview with Bobby Wititjpurru, 1995

⁴³ Some managers even assisted Aboriginal workers during 'holiday' time by killing a beast for them on-site where they camped (McGrath 1987).

concerning cultural matters *is* recognised by individuals who worked with him, and is properly situated in his failure to understand the link between ceremonial activity and sacred sites. An interesting aspect of the following account by Bobby's son, Laurie Roberts, is that there is an implicit acknowledgement that had Lloyd expressed an interest in or aptitude for understanding, then further explanation would have been possible. Instead, right under Lloyd's gaze a system of land ownership and custodianship was being maintained of which he was barely aware.

I know Lloyd - I bin born and raised with that mob and he never used to come down much longa ceremony and ask what it's for. He knew - he didn't stop nobody from ceremony, but he didn't know what is for really, you know - he thought it must be people singin' like a, like a Slim Dusty or somebody singin', you know...He seen lot of ceremony though, around on Auvergne, but, [laughs] see he didn't go into the ceremony ground and...didn't ask him what the ceremony mean, you know. [He] used to let'im people from everywhere have ceremony. I don't know, he must have been reckon just to people get together like a show, you know. But that's the one when we used to get together from all round, like Waterloo, Kildurk, Coolibah used to come, Timber Creek. We never used to meet up there just do the BBQ or something, you know, like burn some sort of a - but there's proper ceremony, see. That ceremony, that been represent for all this country that we used to meet - get together like a committee, you know, you say. We used to have our own-own country and we used to show all the country through that Aboriginal way, see. Let him that other tribe can see our way how we run it and from another end we can see them. Sort of a map, you know, like we call him puwarratj.⁴⁴

While Lloyd's lack of interest prevented him from learning more about Aboriginal cultural matters, on the other side of the Victoria River the new owner of the adjacent Coolibah Station, Peter Murray, demonstrated a genuine interest and willingness to learn:

While the Aborigines trusted Peter and were happy to talk of their tribal ways, he too was happy to listen and learn from them. The Aborigines told him the Wandoan, the big curved hill at the Coolibah horse paddock, was the Dreaming

⁴⁴ Puwarratj is a term which refers to Dreaming beings and Dreaming related objects, physical features, songs and ritual designs and performances (see also 6.3 in the preceding chapter for a description of the meaning of an equivalent central Australian word, *tjukurpa*).

Place of the Caterpillars and the Ten Mile Waterhole was the Dreaming place of the Barramundi (Ogden 1989:54).

However, at this point we must also question the level of information given to Murray. For instance, the sites referred to are both important sites in the area, one of which is regarded as a dangerous hill to climb, and the other being the end point of the Barramundi Dreaming track and contains important features which are vulnerable to theft or damage by whites who regularly use/d the site for fishing. When I first worked in the area with Aboriginal custodians, Wandoan was one of the first sites I was told about, including the cautionary tale of a school teacher who ignored a warning from custodians and climbed the hill. The teacher's death soon after was attributed to the climb. So there were particular reasons in relation to traditional responsibility for sites, including protecting others from danger, for informing receptive whites about these sites. However, it is unlikely that Murray's Aboriginal workers appraised him in any detail of the vast network of sites which exists in the area. In other words, there were limits on the level and amount of cultural information given to whites regardless of their interest and trustworthiness.

From the point of view of whites, one of the principal barriers to understanding, as illustrated by the teacher's misadventure, was that because Aboriginal cultural beliefs were so fundamentally different, Europeans sometimes had difficulty believing even the small amount that they were told:

DC: Just in terms of...the issue of sacred sites...in those early days in particular... did people identify themselves or other people as being responsible for [the Auvergne area] in a traditional sense?

LF: No, they were very secretive about anything like that. They didn't - some of them would...like I remember Johnny, Old Johnny - what's-his-name, Newry Johnny. He...used to be a sort of a medicine man, you know. He'd tell all the weird and wonderful stories, you know, if you were camped out with him he'd talk all night about Blackfella business, but, you know, you wouldn't know whether you could believe half of what he said. He was one of the few that

would...go into all the details about that sort of thing and...most of them were fairly secretive, yes. And there was never any mention of sacred sites, or anything like that--

DC: So people never mentioned any particular areas to you?

LF: No, very little, only umm - I think the females were a bit more inclined to observe some of the - there was some places where they weren't allowed to go to and...if you had to drive through there...they'd all hang their heads and cover up and, they weren't allowed to look.⁴⁵ You know, that's one of the few instances I remember.⁴⁶

In describing the usual Aboriginal attitude with regard to talking about cultural matters as 'secretive', Lloyd, seemingly unwittingly, identifies a major reason for his own ignorance. However, what also stands out is his own lack of reflection about *why* their behaviour was secretive. On this point Laurie Roberts offered a ready answer - important considerations for Aboriginal custodians were that of the fear and risks involved in making information available to unpredictable whites:

...most white fellas used to just go along longa that corroboree, you know...longa ceremony [non-restricted ceremony]. But this really people never explain it what is for, you know. It's 'cause Aboriginal kept that thing secret all the time - didn't say him nothing...because they bin too frightened something might happen later on, see. They was too frightened for white people [to tell them] what that mean...Some [Europeans] couldn't understand and they [Aboriginal elders] couldn't talk, you know - old people can't do nothing [were powerless].⁴⁷

A relevant issue here is that at the time those with the traditional authority to talk about sites were themselves older people who had experienced the worst aspects of the earlier phases of relations with whites (ie the 'Killing Times' and 'Coming In' phases discussed above) and were generally more fearful of whites.⁴⁸ Also, it was mostly

⁴⁵ In Aboriginal cultures in the VRD, some sacred sites are gender restricted in terms of knowledge, access and, in some cases, the viewing of the site or general vicinity from a distance. I have observed such behaviour while travelling through or near such areas with mixed gender groups of Aboriginal people.

⁴⁶ interview with Lloyd Fogarty, 1995.

⁴⁷ Interview with Laurie Roberts, 1995.

⁴⁸ For instance, see Rose 1991:167. The phenomenon was not restricted to that time and in fact is still the case in remote areas such as the VRD. As each generation ages, it seems, they carry with them the memories of an earlier, more precarious relationship with whites.

younger Aboriginal people who were actually working side-by-side with whites and who, as a result of their age, lacked the traditional authority to reveal such information. A consequence of the fear or risk of unwanted consequences and lack of authority of younger workers was that when such matters entered discussion, Aboriginal responses were often couched in non-specific or third party disclaimers which left Europeans unsure of what they were being told:

DC: So when you think about the concept of a sacred site...what kind of a thing do you see a sacred site as being ?

LF: No, I can't really, I can't understand, you know, they were always sort of suspicious, they always appeared suspicious...there was a suspicion about things. You know, "might be that"...sort of, there was a suspicion about areas or---

DC: This was how people would talk to you?

LF: Yes.

DC: They'd say there might be something there?

LF: Mmm, that's right, yes...There might be - they sort of didn't try to impress on you that that was...an area there that might be sacred or something. But you sort of got an idea that there was something, you know, about it, because they were suspicious about it, you know?...They would talk a little about it, about the Dreaming - some of them. You know they'd talk about yeah, "oh that that [Dreaming]" - they sort of - whoever was talking to you they'd reckon that they didn't know anything about it. But they talked about somebody else, you know...it wasn't them, like, it was somebody else⁴⁹.

In summary, the above suggests that, in the main, communication of traditional information to Europeans was limited and mostly restricted to those with whom particular Aboriginal people had a close working relationship. Most whites were disinterested, but those who showed genuine interest seem to have been told more. However, even here secrecy and tentativeness on the part of Aboriginal custodians and difficulties in understanding by whites, limited the effectiveness of the exchanges. The result was that most Europeans learned very little of substance about Aboriginal cultures.

⁴⁹ Interview with Lloyd Fogarty, 1995.

Aboriginal reluctance to divulge cultural information

We can infer from the foregoing that the most significant reason for European ignorance of sacred sites on pastoral leases was that Aboriginal custodians generally chose not to tell them about such matters (cf Liberman 1985:245-54). And while we cannot know the motives of past Aboriginal custodians, some guidance can be found in the motivations and practices of present custodians as well as their remembrances of the past. In my experience, explanations of their forebears' silence on such matters⁵⁰ comprise one or more of a range of related reasons: that they believed that Europeans would not believe them or be able to understand; that they were too shy or frightened of adverse reaction; that they didn't have the 'right' to do so (that is, European law did not support them in protecting sites); that disclosure was inappropriate for cultural reasons; or that they regarded such matters as their own business over which Europeans had and have, no legitimate authority.⁵¹ Significantly, these are also the same explanations which I have heard Aboriginal custodians advance regarding contemporary incidents involving debate about the prior non-disclosure of the existence or significance of sacred sites to whites. This indicates, I believe, an important continuity in the nature of intercultural relations between the present and those of earlier times - a theme which I will return to later in the chapter.

Europeans didn't seek cultural information

It is also significant that the withholding of cultural information from Europeans found

⁵⁰ Such explanations are frequently offered during the course of documenting sacred site protection requests, for instance, to explain why the particular site had not been identified previously. This is sometimes in response to a common complaint by white landowners that the 'sudden' identification of sites is suspect.

⁵¹ It is also likely that the withholding of Aboriginal names of country was significant in that it denied Europeans knowledge which, in Aboriginal societies has considerable social value (Povinelli 1993) and can in the manner of its control constitute an expression of rights to land. In this, their denial of the 'language of place' to whites can be seen as a profoundly political act (cf Carter 1987). See also Laurie Robert's comments in 5.4.2 above).

reciprocation in European responses to Aboriginal cultural matters. A prevailing attitude amongst pastoralists in the VRD was that Aboriginal cultural matters (usually envisaged as 'tribal matters', 'corroborees', hunting and foraging, and 'stories' etc) were their own affairs and not to be interfered with,⁵² except where station work routines were adversely affected. Underpinning this attitude was an understanding that Aboriginal cultural life was carried out in the interstices of the routine of pastoral work and so did not impinge on the effective running of the stations. The structure of authority on the stations too, in relying on Aboriginal intermediaries (trusted workers or community leaders) to relay information between the two domains and to maintain order in the 'blacks' camp', obviated the need to understand or interact with the Aboriginal domain to any significant extent. The use of Aboriginal intermediaries was integral to established European colonial practice which prescribed a strategy of distancing themselves from Aboriginal workers in order to maintain authority (see below). Such distancing was inconsistent with an overt interest in traditional cultural matters. So, the failure of whites to learn about the Aboriginal cultural domain was as much as anything a practical consideration, there being little interest or time for such matters in situations where the practicalities of pastoral work consumed the attention of Europeans and where the structure of authority relied on a maintained distance.⁵³ In other words, Aboriginal practice and European expectations and action with respect to the divulging and seeking of cultural information coincided, although for different reasons, facilitating the maintenance of separate but coexisting European and Aboriginal domains.

⁵² This, for example, was the attitude of Reg Durack (see interview with Enid Durack, NTAS TS629, 19/7/90, pp34-35) and Alan Andrews (interview with Alan Andrews, 1995). See also Shaw 1986:5.

⁵³ Tom Ronan (1966:227) that Harry Shadforth (who managed Auvergne around the 1930s) 'evinced no knowledge of aboriginal legends or beliefs, nor have I heard him use one word of their language, but he knew their psychology' (see also at note 20 above in this chapter).

7.5. Coexisting cultural domains

Many writers have commented on the conditions under which these two domains - one based on European pastoral activity and the other on Aboriginal cultural use of the land - coexisted. A frequently cited example is the seasonal 'holiday' or layoff which occurred during the monsoonal wet season of northern Australia when station work was impractical, providing the opportunity to visit country and carry out cultural responsibilities. As we have seen, Bobby Wititjpuru used the 'work time' / 'holiday time' distinction to infer separate European and Aboriginal domains of authority, respectively. However, station work too, particularly cattle work, also allowed Aboriginal people considerable opportunities to continue to visit and monitor cultural areas where work was taking place.

Aboriginal imperative to learn about the European domain

Such benefits, however, were subordinate to a more powerful reality: that coexistence on the stations demanded a far greater adaptability and accommodation from the Aboriginal side. This has had profound and sometimes unintended effects on the shaping of relations. For instance, an essential accommodation was that Aboriginal workers acquire familiarity with English,⁵⁴ including a vocabulary of station work and of the geography of the landscape based on European names for various yards, bores, 'dinner camps', creeks, waterholes etc. - knowledge which was necessary for communicating with Europeans about work.⁵⁵

⁵⁴ Some pastoralists refused to use any Aboriginal words (see at note 53 above). Most intercultural communication was in a crude Pidjin English.

⁵⁵ In some instances Aboriginal names for areas became adopted by whites and even found their way onto subsequent maps, however, this was not generally the case.

A shared pastoral domain

Shared language together with the common experiences of station life emerged from and occurred within, a bivalently valued landscape, forming overlapping cultural landscapes about which former members of Aboriginal station communities and local white pastoralists have both shared and divergent remembrances. Significantly, shared remembrances tend to relate to the practicalities of station life and work while divergences appear most starkly in remembered accounts of intercultural relations. This shared pastoral domain, within which intercultural relations took place, also acted to mask the existence of coextensive Aboriginal cultural landscapes, which remained, with very few exceptions, mostly invisible and intellectually inaccessible to Europeans. At the same time, the shared pastoral domain gave dominant whites the opportunity to meddle, unwittingly or not, with the Aboriginal domain. And with their lack of knowledge about Aboriginal culture and disapproval of those aspects they were familiar with inevitably came blundering interventions into community affairs.⁵⁶

A discourse of coexistence

The language of a shared pastoral domain, maintained and understood by both black and white, enabled cross-cultural communication to facilitate harmonious relations. Aboriginal conversation in the VRD is rich in allusions to cattle culture. Expressions such as 'breaking in', 'rounding up', 'having a spell', 'scrub bull', 'mob', 'yard', 'paddock', 'dinner camp', as well as reminiscences about station work and experiences

⁵⁶ One such practice was the arranging culturally inappropriate marriages between station workers.

permeate ordinary conversation about people and country. Both Europeans and Aboriginal people with close associations with the cattle stations see in their knowledge and experience of the cattle industry metaphors relevant to other aspects of their lives and social situations. Given the right circumstances, the ease with which pastoralists and former Aboriginal station workers slip into discussing and reminiscing about cattle and station work also suggests an important role in modulating intercultural relations.⁵⁷ A feature of much of this discourse is that it presents a way of talking about country that silences the underlying Aboriginal cultural landscape, thereby defusing a significant source of potential conflict and maintaining the potential for harmonious relations and reciprocal or collaborative outcomes to emerge. Importantly, this requires strategic action by Aboriginal people (in avoiding foregrounding the Aboriginal cultural landscape) of which whites were largely unaware.

Aboriginal adoption of pastoral values

In contrast, many aspects of European practices which were a part of the shared pastoral domain have been actively incorporated into VRD and East Kimberley Aboriginal cultures. Skills with riding, working with cattle, donkey teams, and other aspects of pastoral work ultimately became bound up in broader notions of cultural identity⁵⁸, while jobs provided status and access to resources and privileges for workers and their dependents (including, as we have seen, obtaining material help in

⁵⁷ For example, during an inspection of sites at Auvergne homestead, a male custodian who had lived and worked on the station, was in conversation with the (relatively recent) manager about the old Aboriginal camp. As was common, it consisted of a workers camp with tin huts closest to the homestead and a 'bottom camp' for dependants and non-workers. The custodian jokingly described the camp structure and management of it by the station managers as if the Aboriginal workers were cattle. The manager, he commented would 'train him [Aboriginal people] up to work' and live in the huts, then, when they're too old to work 'you bush him again' back out to the bottom camp. The manager laughed at this description, repeating the 'bush him' in affirmation (field notes of the author, 19/6/97).

⁵⁸ For example, see McGrath, 1987.

organising ceremonies). The station boundaries too, despite clashing with traditional boundaries, became significant cultural markers for members of the network of localised Aboriginal station communities - standing, in part, for their association with, access to or exclusion from the cultural areas and activities within each station.⁵⁹ Aboriginal identification with stations (for example, in referring to themselves as the 'Auvergne mob' or 'Bradshaw mob') reflects the fact that station communities represented social formations which were meaningful for their Aboriginal members.

The extent of meaningfulness of the cultural landscape of pastoralism to Aboriginal people can be gauged from contemporary attitudes which, in general, endorse pastoralism as both a valid and valued use of the land to which many individuals and communities continue to aspire.⁶⁰ A further observation is that the associated discourse of pastoralism is a bivalent one, operative in both cross-cultural and exclusively Aboriginal contexts. That is, the extent to which Aboriginal people have embraced pastoralism and other aspects of Western material culture is not indicative of a straying from traditional values – the replacement of traditional values by corresponding European values – but rather represents the recasting of pastoralism within the terms of Aboriginal experience and social discourse.

⁵⁹ Op cit., p163. See also Baker 1998:217-221, who shows how former station-based Aboriginal people in the Borroloola area have (amongst other perspectives) a cattle station view of history.

⁶⁰ Since the introduction of land rights legislation in the late 1970s, Aboriginal people have secured title to a number of pastoral leases in the Northern Territory (including Kildurk, Fitzroy and Innesvale in the VRD) on which they have sought to continue pastoral operations in some form. Most Aboriginal communities currently living on small blocks excised from pastoral leases also aspire to increase their holdings so that small subsistence or 'killer' herds can be run. More recently, the Aboriginal community of the small regional centre of Timber Creek began hosting an annual Aboriginal rodeo which is keenly contested by local Aboriginal stockmen and has also proved very popular with local whites (see Plate 24).

7.6. Unequal power relations

Different understandings

Overlapping cultural landscapes permitted very differing interpretations of the practices which characterised station life. As Rowse comments:

The traditions of rationing constituted a set of Indigenous and managerial expectations of each other, a complementarity of interests which did not amount to a cultural convergence. The rationing relationship made it possible for both parties to occupy and use the country without having to meld their rationales for using and occupying (Rowse 1998:127).

So what Europeans saw as a necessary and commonsense forbearance in relation to the cultural use of land, Aboriginal people regarded as inalienable rights in respect of which there appeared to be at least a qualified European recognition. There was a different understanding of the terms of the contract, one that saw the stations as largely irrelevant to the Aboriginal domain (Berndt 1981:7-8). That European understandings have remained so impervious to the detail of Aboriginal cultural experience has been at least in part due to the operation of unequal power relations which have left a heavy, yet sometimes elusive imprint on the patterns of cross-cultural interaction and understanding.

Repressive practices and cultural distancing

Two related aspects of European-Aboriginal power relations need special mention - repressive practices and cultural distancing. Repressive practices have been an integral component of intercultural relations, begun, of course, with the processes of

dispossession and 'dispersal',⁶¹ progressing (if that's an appropriate term) to the supervisory and disciplinary control of station life and from there to the more implicit forms which have characterised intercultural relations in the VRD since the departure of Aboriginal communities from European-owned stations.⁶²

Cultural distancing was prefigured in European approaches to their relations with Indigenous peoples, largely based on stereotypical understandings of the nature and social place of the Aboriginal 'other'.⁶³ Common to such understanding was a view that it was necessary to treat Aboriginal people according to certain explicit rules of behaviour in order to establish one's authority. A central tenet of these rules was that Europeans should not try to become close to Aboriginal workers or to communicate with them as one would another European.⁶⁴ Communication generally was limited to what was necessary to supervise and direct workers. Cultural distancing was reinforced spatially and materially: Aboriginal workers and their dependents lived and ate separately from whites under conditions which were generally abject. A further rule for dealing with blacks was that one should always keep his or her word, even if that meant carrying out threatened physical punishment for 'laziness' or disobedience.⁶⁵ Being too friendly or soft on Aboriginal workers was regarded as a sure way to lose their respect and encourage them to exploit such weakness, even take over.⁶⁶ The bottom line, however, was that their tractability as workers would be spoilt.⁶⁷

⁶¹ See note 2 above in Chapter 2.

⁶² I am concerned here more with the broader effects of repressive practices on relations rather than the specific detail of such practices. For further detail relating to the VRD see McGrath 1985, Riddett 1988, Rose 1991.

⁶³ Equally, as touched on earlier, cultural distancing is also a product of the efforts of Aboriginal communities to maintain an autonomous domain removed from white interference.

⁶⁴ See quote from Ivor Hall above on page 167 above; see also Riddett 1988, p182.

⁶⁵ Interview with Mr and Mrs Noel Hall, NTAS TS230, 1978:18.

⁶⁶ *op cit.*, page 20.

⁶⁷ Riddett, L. 1988:240; interview with Mr and Mrs Noel Hall, NTAS TS230, page 20.

The illusion of Aboriginal affirmation

Rules for 'dealing with blacks' were specifically aimed at establishing and maintaining relations of dominance over Aboriginal workers. A significant consequence was that, in most situations, Europeans received ready compliance and affirmation from the Aboriginal people they interacted with. This continues to be a feature of contemporary cross-cultural relations, particularly those involving older pastoralists and former station employees. However, the fact that such compliance and affirmation was/is to some degree illusory, is downplayed by pastoralists who conveniently misinterpret power-induced responses as the 'natives' continuing to be 'happy'. In overlooking a central principle of pastoral relations, pastoralists have failed to see that individual and collective Aboriginal memories of repressive practices, maintained strongly in oral traditions, continue to have profound effects on intercultural relations. Their effects are often subtle, encoded in patterns of cross-cultural communication as words and gestures which are encapsulations of the real or perceived exercise of power and its induced effects: gratuitous replies, acquiescence, deferent, evasive or uncommunicative behaviours etc.⁶⁸

Mutuality and exchange

It seems fair to suggest that the ability to decode Aboriginal expressions and demeanors - or at least to do so accurately - requires a level of knowledge, self-reflection and analysis which is rarely found in the records and reflections of Europeans of the time. This has also proved to be an ongoing phenomenon, sustained not only by the idealised remembrances of pastoralists, but also by the fact that many

⁶⁸ See, for example, Liberman 1985; Eades 1992. These issues are discussed further in Chapter 10.

older Aboriginal former station workers care to stress the positive aspects of their working lives, and even to assert what they regard as good relations with many both old-established and newly-arrived whites. Members of this generation in particular, can construct their relations with whites in terms of mutuality (ie, as based on relations of reciprocal exchange), rather than domination.⁶⁹ Such perspectives offer insight into the understanding of Aboriginal people about the 'contract', particularly how their expectations have been limited by assumptions of the inevitability of European domination and of the existence of fundamental disparities between the two cultures. In the following exchange Bobby Wititjpurru, is asked by his son Laurie about conditions in the 'early days' for the purpose of recording Bobby's remembrances on tape:

LR: They bin treat you mob got a bread and beef?

BW: Oh, that's all, no money---

LR: Tobacco?

BW: ---that's all. But they done good thing - he's [their treatment] alright for start - till we bin used to the job and everything, you know.⁷⁰

In Bobby's view, the period during which Aboriginal labour was exploited in return for 'rations' is equated as a kind of apprenticeship period during which Aboriginal people

⁶⁹ Francesca Merlan made such a comment in relation to an example she raised regarding an Aboriginal man of similar age and background (Australian Institute of Aboriginal & Torres Strait Islander Studies seminar, 27 May 1996, Canberra). On some stations there was a more developed mutual relationship between Aboriginal groups and individual station managers (see, for example Schultz 1997, in relation to Humbert River Station). On rare occasions such mutuality was openly expressed:

'When Kilfoyle sold out he took us all into Wyndham...and he said, 'Just order what you fellas want. Just go into Lee Tong's'...Oh we bought clothes and suitcases and riding boots and shirts, fancy shirts. All right. And when he left there he followed us halfway along the road and he said to us, 'I wouldn't be in this position now if I didn't have you people in this'. Well the missus and him started crying and that and all the mob on the truck started crying. He said, 'If it wasn't for you people Rosewood wouldn't be what it is today.' And he gave us cash. After we bought all that stuff we wanted he still gave us cash on top of that' (Shaw 1992:183-184).

McGrath (1987) considers different contexts of exchange, including relating to the access of women for sex. Rowse (1988:72 at note 8), citing Sahlin (1974), points to the importance of distinguishing between different types of exchange.

⁷⁰ Interview with Bobby Wititjpurru, 1995.

were making the transition from being 'myalls'⁷¹ to learning the skills of pastoral work. The gradual introduction and improvement in wages could, in this light, be interpreted as the consolidation of reciprocal relations as the contribution and skills of Aboriginal workers improved.⁷² A similar sentiment was expressed by Bill Laurie (a Ngarinman relative of Bobby's who worked on a number of East Kimberley stations) in describing how the shortage of white drovers during the Second World War resulted in Aboriginal stockmen being permitted for the first time to drive cattle to the Wyndham meatworks:

That's the time we came up with the white man I reckon. 'Oh, somebody must like us in the finish', I reckoned, for doing the job. 'Oh well, we must be getting up a little bit'. Well that was how we felt, 'Now the white man give us a go now. Well we just like anybody now' (Shaw 1992:101).

Collman (1988:133) echoes such sentiment in his comment that by establishing a reputation as a 'good worker' Aboriginal people were treated differently:

An Aboriginal man who establishes a good reputation thereby largely suspends the relevance of his ethnic identity for his transactions with pastoralists.

Establishing relations with 'bosses'

⁷¹ Use of the term by Aboriginal people from pastoral backgrounds often counterposes the ignorance of myalls about Europeans against the knowledge and skills which they had learnt and which, ultimately, proved to be the only avenue survival and coexistence. Relations between the myalls and station Aborigines were complex and sometimes difficult (see also at note 6, Chapter 2 above).

⁷² Further indication of the contractual/reciprocal nature of such thinking is the fact that the ongoing failure of pastoralists to improve remuneration to Aboriginal workers became a major factor in the growing discontentment with conditions on the stations, and the later walk-offs from Wave Hill, Victoria River Downs and other stations (see next chapter). It also needs to be remembered that Bobby's experience was on Auvergne, where conditions were relatively good, and therefore must be contrasted with accounts from stations where harsher conditions existed - such as those recorded by Rose (1991) and the Berndts (1987) who looked at stations to the south owned by Bovril and Vesteys (Victoria River Downs, Wave Hill, Limbunya, Waterloo and Birrindudu). Aboriginal accounts from these stations tend to emphasise perspectives of exploitation rather than reciprocity.

Despite the searching for recognition/reciprocation which Bill and Bobby's words express, Aboriginal people held no illusions about their status and vulnerability with respect to the authority of whites. The most important relationships were those with station managers and head stockmen who could inflict physical punishments as well as material deprivation for 'cheeky' behaviour or unsatisfactory work. The considerable differences in character of whites in positions of authority, ranging from extreme cruelty and brutality on the one hand to tolerance and benevolence on the other, helps to explain why 'good' bosses were held in such high esteem. And all the better if they stayed for a long time:

Like you see a lot of these managers here for a length of time. Fourteen and fifteen and sixteen years they manage the places. Well they sort of get used to that manger. They know him. 'Oh a good boss this one. Nothing wrong. A good malaga', they'd say...See they sort of like that bloke over ten or maybe twenty years. They sort of have a feeling for him as well as his feelings for the boys... (Shaw 1992:111).

In truth there was considerable change in white personnel on the stations, particularly the large company-owned operations, while Aboriginal workers tended to remain on stations which were on or near their traditional country. Thus it was a critical moment in terms of what was to become when a new boss arrived:

And when they got new managers, 'Oh we gotta feel him first time for what he like'...Well they gradually get used to him. But what their problem is the same time they're thinking of their manager they think of their country more you see. They won't leave the country (Shaw 1992:112).

People's strong ties to their country meant that they often endured cruel or unfair managers and head stockmen. It is against such possibilities that the longevity and predictability of a less than satisfactory relationship with a white boss was sometimes more important than its actual quality. In time understandings and routines could develop which, in their predictability offered a measure of reassurance, even if the

European involved was 'hard'.

[B]ut if they had a manger there for eight or nine years well they think the world of him like, just like their old country, If he went away and another one came along well I don't know how they'd get along. He might say 'Get, go to bloody hell', and abuse them for nothing. Well that's the way all most blackfellas think about now...If he reckons we're rubbish we'll rubbish him bloody quick. But before in the early days well what you'd do to me, shoot me like a bloody dog here, the head stockman and all. If they reckoned you were rubbish you were finished (Shaw 1992:112).

The above passage indicates that over time Aboriginal workers enjoyed an improved ability to negotiate with managers and even to give them a hard time back if they were treated badly, as against the 'early days' when 'if they did say anything the white man could pick up a stick and hit them over the bloody head that's all' (1992:109). Bill's story also highlights a temporal scheme commonly found in personal accounts of the pastoral era – the identification of 'early days' as a more brutal time which was followed by better treatment. They were 'coming up gradually' (1992:110).

Around the mid-1920s as a young boy, Bill witnessed the treatment of two 'bush blacks' from the Sandstone⁷³ who were captured by the manager and head stockman of Waterloo and tied to a tree:

Oh I remember that just like it happened this morning like. I know what the manager said to that old boy. 'This', he said, 'See this revolver here? I'll shoot you right in the forehead. You'll never kill no more bullock'. Well, he took them away and shot them alright. He did something to them. We never saw them any more anyway (1992:110).

Justice was at the hands of the manager because the police visited only once every

⁷³ The Sandstone referred to here extends into Auvergne Station.

twelve months.⁷⁴ It wasn't until the 1930s that he felt 'it was a little bit of a good life then. The country had quietened down and you had the welfare and policeman then' (1992:111).

Avoidance of confrontation

Whatever the particular conditions and relationship between Aboriginal people and whites on pastoral stations, an overriding imperative in the tenor of Aboriginal approaches to intercultural issues has been and continues to be, to seek to avoid direct confrontation with Euro-Australians. Non-confrontationist behaviour is simultaneously oriented towards producing more harmonious or reciprocal relations as well as avoiding unwanted outcomes. In individuals the latter is often manifested as a hyper-sensitivity to interactional dynamics which appear to suggest a threat to a person's safety or personal interests. An example can be found in the behaviour of Bobby Witiitjpuru, who was regarded by himself and others as an exceptionally conscientious and loyal employee of Auvergne Station, on which he stayed his entire working life. Bobby's demeanour with Europeans was always outwardly friendly and relaxed, carried out in a manner which masked his extreme deference to what he thought their interest or expectation might be. In conversation with whites, whenever he perceived the slightest hint of disagreement or disapproval regarding an issue he would declare emphatically 'oh, nothing wrong!' and proceed to reassure whoever he was speaking to on the point at hand - that the orthodoxy of a history of fair and harmonious relations had existed all along, or that the European could do whatever it was he or she wanted, or that a site under discussion was not at all important. In other words, his responses to whites were littered with gratuitous utterances. Only

⁷⁴ Timber Creek had a police station from 1898 and so nearby stations like Auvergne had more regular visits from police.

occasionally, and sometimes after gentle encouragement from his eldest son Laurie, would he let his guard down and reveal his innermost feelings and criticisms in the presence of Europeans⁷⁵. I believe that Bobby's behaviour (which is not unusual amongst Aboriginal people who have grown up on pastoral stations) reflects a naturalised and internalised hyper-sensitivity towards a perceived potential of European reaction. In this it is the unpredictability of European reaction, informed by remembered incidents of cruelty and brutality which he has experienced or been told about, that shaped his action in the present. It is often within this realm of the *potential* that the operation of a power relation is activated – even where no such intention attaches to the actions of the Europeans involved.⁷⁶

The degree to which Aboriginal people felt compelled to maintain a non-confrontationist demeanor is also evidenced by the dearth of recorded instances of Aboriginal people physically confronting whites. These have usually been memorable incidents for those involved as well as for others who no doubt derive vicarious satisfaction from hearing stories of European authority being openly challenged, if but briefly. For instance, Big Mick Kankinang, a now deceased Ngaliwurru leader, proudly admitted to having "tested" whites six times with his own fists' (Rose 1991:95).⁷⁷ It is no coincidence that Big Mick was one of the most knowledgeable and highly respected

⁷⁵ An example of the working of the 'hidden transcript'. The one and important exception to this was the general realm of pastoral work and experiences, which evoked a vigorous and often nostalgic remembrance which parallels that of European pastoralists of his vintage.

⁷⁶ An excellent example of such anticipation activating a power relation is found in Jeannie Gunn's *Little Black Princess* when the 'uppity' Aboriginal worker, Charlie, fled when confronted with the revolver of the white 'missus'. Despite his good relations with her and despite the fact that she had never used a firearm against Aborigines, there was obviously no question in his mind that she was capable of shooting him. Yet, the author saw this event as something comical and seemed oblivious to the more sinister implication the incident exposed about European-Aboriginal relations. Rose (1991:209-10) also discusses an incident on Wave Hill Station in 1914 in which whites threatened to use their guns when a mock fight between Aborigines, staged for their entertainment, appeared to be getting serious. Rose comments: 'Whatever happy times there must have been...they were always framed by the structure and practice of power.'

⁷⁷ See also Morris 1990, Shaw 1992:184 for other VRD examples.

Aboriginal leaders in the VRD. Some accounts also appear to indicate a carefully calculated 'calling the bluff' of an aggravated white.

Aboriginal action must also be viewed with an understanding of the restriction of choice for Aboriginal people resulting from European control of land, infrastructure and administrative institutions. Those who chose to stay out from the stations faced many difficulties which in the end proved insurmountable. Forced into marginal country, facing ecological degradation caused by cattle, constant harassment from raids and 'dispersals' by police and pastoralists - all took their toll. By the 1930s most had come in. In the mid-1940s, the Berndts' inquiries about a remaining group in the sandstone country southwest of Auvergne proved fruitless⁷⁸. In truth, there was nowhere else to go, particularly if people wanted 'to remain close to their country and kin', and the only option was to embrace or succumb to a station existence which at least allowed periodical movement back and forth to the bush.⁷⁹ The degree to which this choice resulted in perspectives of confinement or of mobility depended both on the particular conditions which were encountered as well as the context of the analysis.⁸⁰

7.7. Conclusion

This chapter has sought to develop the intercultural themes of earlier chapters, particularly Chapter 6, in the context of the pastoral history of the VRD and the example of Auvergne Station. The chapter has identified the existence of a former cultural coexistence on stations, unequal though it was, based around a conditional acceptance of Aboriginal cultural attachment to the land. This 'unwritten contract', was

⁷⁸ Berndt & Berndt 1987.

⁷⁹ Rose 1991:73.

⁸⁰ Rose 1991; Riddett 1985; McGrath 1987.

characterised by different understandings on either side of the cultural divide, and by the self-interested maintenance of separate cultural domains by both pastoralists and Aboriginal station communities. A significant aspect of the approach of Aboriginal people towards the relationship was the withholding of cultural information relating to the land from pastoralists. On the other side, the kinds of authoritarian practices and attitudes of pastoralists towards Aboriginal station communities prevented the development of cultural understanding and produced a deferential and often gratuitous 'public transcript' of Aboriginal behaviour towards whites. Coexistence on the stations was also characterised by an overlapping pastoral domain within which intercultural relations were mainly situated and from which Aboriginal communities adopted and incorporated aspects of pastoralism into the Aboriginal domain.

The following chapter seeks to chart the fate of pastoral relations since the 1960s when changes resulted in the severing of the old 'contract' and the introduction of a new politics of 'land rights' and the 'heritage protection era' – marking the final transformation of pastorally-based Aboriginal communities from 'station blacks' to 'Aboriginal custodians'.

Plates 16 - 19



- Plate 16:** Aboriginal workers' huts at Auvergne Station. These were used up till the late 1970s.
- Plate 17:** Joe Long in his 'bull-catcher' returning from visiting sites on Auvergne Station. Joe is a senior traditional owner for the Auvergne area and runs an all-Aboriginal contract bull-catching team working in the VRD and East Kimberley.
- Plate 18:** Former Aboriginal stockmen at the Timber Creek Aboriginal Rodeo, 1997. Young Aboriginal men continue to be trained and work as stockmen on local Aboriginal-owned stations and to a limited extent on white-owned stations.
- Plate 19:** Sacred baobab tree on Auvergne Station. Note the erosion around its roots. Similar erosion afflicts many sacred trees in the VRD.

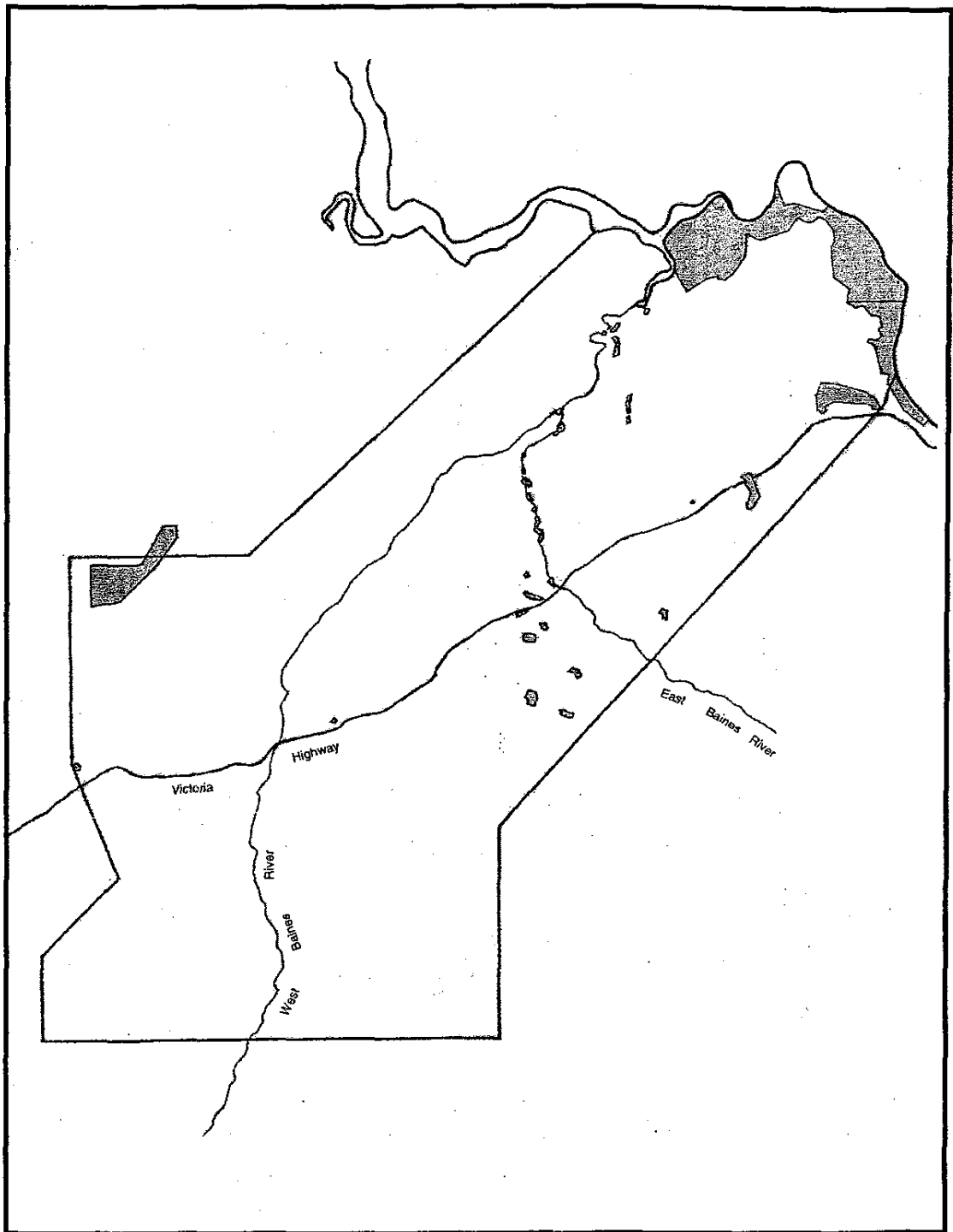


Figure 5: Auvergne Pastoral Lease showing registered sacred sites.

CHAPTER 8: DRIFTING APART: POST-1960s PASTORAL RELATIONS

8.1. Introduction

Since the mid-1960s, acceptance of the possibility of cultural coexistence on pastoral leases has waned to the extent that many pastoralists are now trenchant critics of the recognition and accommodation of Aboriginal cultural rights on their land. This chapter traces the course of this change over the past few decades in response to the distancing of Aboriginal communities from station economies and the resulting legislative and administrative interventions of governments in servicing Aboriginal land, cultural heritage protection and community needs. The gaining of wage and other citizenship rights, emerging Aboriginal dissatisfaction with conditions and treatment on the stations, and renewed community and welfare support by government agencies, all contributed to a severing of close ties between Aborigines and the stations. Between 1966 and 1978, Aboriginal communities 'walked-off' a number of stations in the VRD, including Wave Hill, Victoria River Downs, Humbert River and Bradshaw, in protest over conditions and treatment¹. In 1972 on Auvergne Station, Aboriginal leaders and the then manager, mutually agreed to the establishment of a new, independent community beside the Victoria Highway, away from the homestead.² None of these groups returned to their former station communities.

These events instigated changes in the structure of intercultural relations which need

¹ Rose 1991, *Dingo Makes Us Human*, pp20-24; Riddett 1988; Ackerman & Bauman 1992, *Fitzroy (Nungali/Ngaliwurru) Land Claim*, pp39-40. During the 1970s many Aboriginal station communities were forced off the stations by pastoralists.

² Interview with Bobby Wititjpuru, 1995; Interview with Lloyd Fogarty, 1995. Auvergne differs somewhat from most other non-Aboriginal owned stations in the area in having maintained relatively good relations with the local Aboriginal community.

to be viewed against the conditions of the earlier phase of coexistence, described in the previous chapters.

8.2. Politics and land: Post-1960s changes in European-Aboriginal relations

Strikes, the Pastoral Award, the 1967 Referendum and aftermath: confronting the desire for land and autonomy

In the context of this thesis, the most significant outcome of the events of the 60s and early 70s was the readjustment of relations between the stations and local Aboriginal people – a weakening of ‘the secular links between people, country and pastoralists’ (Rowse 1998:144). Increased eligibility for pensions in 1959-60 was followed in 1964 by legislative changes removing the wardship status of Aboriginal people and permitting their legal access to alcohol. The following year the Conciliation and Arbitration Commission ruled that Aboriginal pastoral workers in the Northern Territory were entitled to the full pastoral industry award wage, to be phased in over three years. Then, in August 1966 Aboriginal workers walked-off Wave Hill Station in protest at the failure to implement award wages and improved conditions and set up at Wattie Creek, demanding their own land. The following year a national referendum overwhelmingly supported changes to two sections of the Australian Constitution considered discriminatory towards Aborigines. One of these removed restrictions on the power of the Commonwealth to make laws in relation to Aborigines.

These events each in their own way signalled the end of the unchallenged exploitation of Aboriginal labour by the stations, but in so doing also led to the erosion of the cultural benefits to station communities of the pastoral coexistence outlined in Chapter

6. From the Administration's perspective, the events exposed inherent contradictions between the policy objectives of 'assimilation' and outcomes of rationing station communities. The 1965 equal wage case decision - a logical step towards the 'waged citizen' goal of assimilation - faced pastoralists with increased costs of Aboriginal labour, which, the industry argued, would need to be offset by reducing labour demand and seeking to shed non-working Aboriginal station residents. Such an outcome was significant in that station work was one of the few employment options for remote Aboriginal communities. On the other hand, faced with its new responsibilities for Aboriginal policy, the Commonwealth was also having to confront the hard truth of the failure of the rationing system on stations to deliver improvements in conditions and education consistent with the goals of assimilation. As we have seen, the association of Aboriginal people with the pastoral industry, though subject to exploitation and brutality, also enabled a kind of coexistence characterised by 'mutually understood obligations and interdependence'. The truth was that pastoralists had little incentive to deliver such improvements and Aboriginal people could scarcely conceive of, let alone embrace, the possibility of abandoning their cultures in favour of an imposed assimilationist vision. Thus, low remuneration and poor living and social conditions were offset by the maintenance of traditional culture and connection with the land. To add to these dilemmas, cash wages and access to normal welfare payments (pensions and child endowment, etc) fostered a growing independence of Aboriginal station residents, which, coupled with the availability of alcohol, created for pastoralists what Rowse terms 'a crisis of managed consumption' (Rowse 1998). This was experienced as problems of social control - an increasing 'restlessness' and absenteeism of employees and disruption within station communities.

In this climate, the Gurindji walk-off from Wave Hill Station to set up at Wattie Creek presented pastoralists and the Commonwealth with added dilemmas associated with their demands for the return of some of their land. The August 1966 walk-off was

followed by a land petition in March 1967 seeking the excision of land from Wave Hill Station as a 'home area' for the Gurindji. For pastoralists, the prospect of a proliferation of Aboriginal demands for land from the pastoral estate which might follow any precedent set in relation to the Gurindji, was to be vigorously resisted. During 1968, with the Commonwealth still grappling for a solution to the Wattie Creek issue, the Northern Territory Cattle Producers Council (NTCPC)³ wrote to the Minister for the Interior detailing its arguments against a grant of land to the Gurindji.⁴ A major concern was that the strike and petition had been 'conceived and inspired by communists'⁵ and that any subsequent grant would be 'surrender to communist pressure tactics'. A second concern for the NTCPC was a recent report by the Sessional Committee on the Integration of the Legislative Council of the Northern Territory which recommended negotiations begin with the owners of Wave Hill for the surrender of an area at Wattie Creek. The Committee had noted that the Gurindji 'have a strong moral claim to this small part of a much larger area that from time immemorial they have considered to be theirs', and urged the provision of better housing at Wattie Creek so as not 'to discourage an independent step towards the betterment of their conditions'.

In respect of the 'whole broad question of aboriginal [sic] rights to land' that the Committee's report raised, the NTCPC observed:

We do not agree that, considering the circumstances of Australia's history and development and the history of the aborigines and their land usage practice, the

³ The Council claimed to represent 80% of Northern Territory pastoralists as well as acting in the matter on behalf of other rural bodies – the Australian Woolgrowers & Graziers Council, the United Graziers Association of Queensland, the Stockowners Association of South Australia and the Pastoralists and Graziers Association of Western Australia.

⁴ The NTCPC's letters, dated 17th April 1968 and 22nd April 1968, together with other documents quoted below can be found in Series A5868, Submission 72, Decision 203 of the Second Gorton Ministry Cabinet Submissions and Decisions, National Archives of Australia.

⁵ The basis of such concern was the fact that a well-known Australian 'Communist author', Frank Hardy, was assisting the Wattie Creek group (see Hardy 1968 for a detailed account of his involvement).

concept of immemorial rights and the right to compensation for their dispossession can be argued today. (W. E. L. de Vos, Secretary NTCP, to Hon. P.J. Nixon M.P., Minister of the Interior, 17th April 1968).

In respect of the need to encourage self-reliance the NTCP raised the likely negative effects on assimilation of creating separate 'tribal enclaves':

There is already criticism of the Gurindji proposal as promoting their segregation – withdrawal from our society – rather than integration which is the principal objective. There is evidence that the development of tribal self-consciousness can have such an effect. From "Victoria River Downs" it is reported that Gurindji women, married to other aborigines, have been withdrawn. If this is true, is it a desirable by-product of encouraging self-reliance by tribes, representing as it does a new form of segregation separating within themselves a people all of whom it is sought to integrate with the Australian community?⁶ (W. E. L. de Vos, Secretary NTCP, to Hon. P.J. Nixon M.P., Minister of the Interior, 17th April 1968).

This was one of a number of arguments against the Gurindji's proposal based on a mixture of local knowledge about Aboriginal custom, specific information about the progress of events at Wave Hill and 'informed' speculation. For instance, the Council questioned 'the genuine desire of all the Gurindji originally on "Wave Hill" to accept the dicta of their tribal leaders in this aim to withdraw as a group from our community' and noted that there was a 'dwindling group at Wattie Creek'. The proposal, it was suggested, would not benefit the whole of the Gurindji. Pointing to a lack of investigation into the cultural significance of the area, the Council speculated 'whether a place reported to be sacred to the whole tribe is suitable as the permanent home of a small group of its members'. At the same time the alleged 'tribal' importance of the Wattie Creek site was questioned. Another line of argument concerned 'the danger of proliferating demands'. A specific example raised was that of the 'Walbri' (sic), another group present at Wave Hill, in relation to which it was noted that 'the Walbri and the

⁶ In fact the Wattie Creek camp provided support for a number of other station communities comprising a range of different 'tribal' groups. For instance, in 1972 striking communities from Victoria River Downs, Humbert River and Camfield, including Karangpuru, Bilinara, Ngarinman, Mudbara and Ngaliwurru people, joined the Gurindji at Wattie Creek.

Gurindji will not live together'. 'If the Wattie Creek village is established with public funds', the Council argued, 'the next group who will ask or be inspired to ask for similar treatment will be the Walbri'. Other purported cultural barriers were noted, for example, the fact that 'many tribal groups, including those with long association with Europeans will still abandon a living place, when a death occurs'. For good measure the Council stressed the incapability of the Gurindji to manage or exercise control over the land. For instance, in relation to access by the public and undesirables, the Council noted that 'It cannot be expected that the aborigines themselves would or could exercise any control themselves over such comings and goings.' Further, 'an enclave so created for the benefit of a particular group will attract to it inevitably others prepared to live on them sharing their bounty and the public bounty...'

As an alternative, the Council proposed that the Commonwealth fund a 'type of 'suburban settlement' on properties...under the control of management' with the object of assisting 'the social development of aboriginal pastoral workers'. The Council observed:

We question whether the Gurindji distinguish [possession and legal ownership of land] and whether the wants of each of them will not be satisfied by the provision of a home in a fenced garden where each is master of his domain.⁷

What emerges from the Council's letters apart from an apparent ignorance of Aboriginal culture, is an underlying hypocrisy and cynicism in their arguments. Notably absent from the NTCP's arguments is any acknowledgement that the station regimes relied on a maintained separation and subjugation of Aboriginal communities. For example, expression of concern about cultural impediments to assimilation ring hollow against the fact of pastoralists' reliance on 'tribal self-consciousness' in the form of a

⁷ W. E. L. de Vos, Secretary NTCP, to Hon. P.J. Nixon M.P., Minister of the Interior, 17th April 1968.

separate Indigenous cultural domain (ie, as essentially a site of resistance to cultural assimilation) in maintaining what were essentially pools of cheap labour. In fact, during the 1965 equal wages case pastoralists had presented an essentially opposite argument; that the ability to maintain attachments to traditional areas was one of the benefits of existing pastoral arrangements. The reality was that this aspect of the pastoral regime embodied a number of dilemmas facing pastoralists and the Administration with respect to Aboriginal station communities during the assimilation era. Throughout this period, existing pastoral conditions survived because of the degree to which both the industry and the Administration turned a blind eye or avoided addressing the underlying failure of the pastoral coexistence to improve Aboriginal material and social conditions in accordance with the policy framework of assimilation. Wattie Creek was now exposing flaws in the assumptions underlying assimilation by powerfully linking a number of issues: poor Aboriginal social conditions, uncompensated dispossession, continuing traditional attachment to land and emerging aspirations for land and autonomy.

Having lost the argument with respect to equal wages, the industry's position by 1968 was based on 1) resisting outside pressure/interference; 2) resisting in-principle recognition of Aboriginal customary rights to land; and 3) opposition to the creation of independent Aboriginal communities on pastoral land. Their position essentially sought to maintain their direct control over Aboriginal communities on stations and to secure government funding for the provision of community infrastructure and responsibility for social welfare.

While having sympathy for many of the concerns of pastoralists, the Commonwealth also had other interests to consider. The submission to Cabinet by the Minister for the Interior, attached to which were the NTCP's letters, noted:

There is increasing public concern about land rights for Aborigines; refusal to excise eight square miles out of 6158 square miles of the Wave Hill lease could attract national and international criticism as casting doubt on the sincerity and the willingness of Australians to assist the Aborigines in calling into question the willingness of the Government to apply the sentiments which stimulated the result of the constitutional referendum on questions affecting Aborigines.⁸

Both the NTCP and the Commonwealth sought to minimise the effects of the issue as a precedent by emphasising the 'experimental' nature of any grant of land to the Wattie Creek group.

For the time being Aboriginal affairs policy was in a state of uncertainty. In an apparent attempt to resist the tide of the times the new Minister, W.C. Wentworth, sought a new Aboriginal affairs policy which, it was decided, must affirm the long established policy of assimilation. However, Indigenous affairs policy could no longer avoid the issues of the conditions of Aboriginal people on the stations and of their continuing cultural attachment to land – the facts of which were widely though perhaps superficially understood by pastoralists and the Administration (Rowse 1998). The Government was also aware of the extent of public pressure and the potential for a 'proliferation of demands'. For Aboriginal people, Wattie Creek represented an alternative way – the option to stay on country, obtain some land *and* be independent of pastoralists. The possibility of a grant of land from the stations meant that, whereas continuing attachment to land had previously been a motivation for remaining on the stations in an unequal coexistence, it was now a reason for seeking to sever the relationship. Both pastoralists and Aboriginal station communities now had incentives to break with the old arrangement, but for Aboriginal people the risks must have seemed great. After all, pastoralists still had the effective power to deny access to traditional lands.

A revealing aspect of pastoralists' intervention in the Wattie Creek saga was the

⁸ Submission to Cabinet by the Minister for the Interior, 26 April 1968.

industry's approach to countering the position of the Wattie Creek group. This involved the use of arguments and information disparaging of Aboriginal cultural and religious attachment to land to thwart serious consideration of their demands. But their most developed arguments criticising the case of the Wattie Creek group pointed to their vulnerability to manipulative outside interests, particularly the Communists. However, in raising the issue of vulnerability, pastoralists also invited the comparison that the conduct of their own relations with Aboriginal people was and is similarly open to abuse. For instance, the NTCPG noted:

Aborigines, as is well known, are extremely suggestible...A visitor to [the Wattie Creek] group can, in the end, take away from it whatever impression of their attitude and desires which he likes.⁹

While the use of 'suggestible' indicates a paternalistic view of Aboriginal people as 'child-like', the comment also reveals an understanding that the 'public transcript' of the Wattie Creek group is often a reflection of the transmitted preconceptions and desires of white interlocutors. It is a tacit admission of the power-laden, implicitly coercive nature of communicative relations between black and white.

Aboriginal moves from VRD and Auvergne

While the Wave Hill strike is now seen as one of the seminal events of the land rights movement in Australia, at the time, other Aboriginal station communities in the VRD reacted cautiously to the precedent. The Wave Hill strikers were well-known to Aboriginal people from VRD Station and other stations to the north, many of whom were closely related, but it was not until six years later in March 1972 that VRD and Humbert River workers followed suit, walking off and moving to Wattie Creek to join

⁹ W. E. L. de Vos, Secretary NTCPG, to Hon. P.J. Nixon M.P., Minister of the Interior, 17th April 1968.

their Gurindji kin¹⁰.

Whatever the reasons for this delay, the deep dissatisfaction of the VRD Station people with working and living conditions and their resolve not to return were as strong as that of their Gurindji neighbours. Their relationship with the station management was equally strained. VRD Station had a reputation for the harsh and uncompromising treatment of its Aboriginal workers and their dependents¹¹ (Rose 1991). A measure of the tenor of intercultural relations on VRD at the time is provided by Jack Doolan's account of the situation following the strike and walk-off:

It is also fairly easy to detect an undercurrent of trepidation which exists with regard to their [the Aboriginal strikers] future relationship with Europeans on V.R.D. It would be difficult to dispute the fact that this group of people led a most unhappy existence before the March 1972 walk-off, and that as they themselves expressed it, they were "treated like dogs". The conditions under which they formerly lived were extremely bad even in comparison with other pastoral properties in this district, most of which are also in need of considerable improvement. These conditions were brought about not only by the company's attitude which virtually ignored their status as human beings, but also by the "sick" behaviour of a group of ringers performing a mock ritual dance around a funeral pyre of Aboriginal dogs which had been shot following the people's departure, and the jubilation of the European residents' consequent celebration when the old Aboriginal huts were flattened by a bulldozer in the compound area. With these kinds of things in mind, it is not difficult to understand why this feeling of trepidation exists, and why the people are apprehensive of approaching the manager should the need arise.¹²

But it is also clear that it was not merely the conditions which were at issue, but a genuine recognition of the need to regain their own land and to shrug off the

¹⁰ VRD workers are said to have threatened to strike along with the Gurindji in 1966 but were talked out of the move by the then manager of VRD, George Lewis, on promise of better conditions (personal communication Llew Griffiths, 1999). By 1972 however, there was a different manager at VRD. Rose (1992) has noted that the Humbert River workers joined in solidarity with VRD station community, even though conditions on Humbert and relations with the manager were considerably better.

¹¹ At the time of the strike VRD was owned by the Hooker Pastoral Company, a large corporate landholder. From 1909 to 1955, VRD Station was owned by the large British company, Bovril Australian Estates Ltd (Makin 1983).

¹² Doolan nd.: memo from Acting District Advisor, Jack Doolan to Director of Welfare, 26th October 1973.

domination of the stations over their lives. There is no doubt that Wattie Creek showed what was possible and encouraged a confidence which infused the region. A sense of this confidence is apparent in the clear idea the VRD station community had of their terms for returning:

Charcoal then suggested that when they eventually return, the people would want to live completely separate from the Europeans, in their own camp, just as the Gurindji people were doing now (Doolan nd.).

Jack Doolan linked this thinking also to similar moves to the north on Auvergne:

This idea of a separate area for Aborigines away from direct European influence follows the Wattie Creek camp and the fairly recent movement by Bobby [Wititjpuru] on Auvergne Station to establish a similar type of camp there (Doolan nd.).

That their desire for separate land and independence from Europeans (rather than simply the conditions of station life), were major factors in seeking to set up separate communities, is also evidenced by the fact that the move on Auvergne occurred despite considerably better conditions and better relations with the Auvergne manager, Lloyd Fogarty, than those at VRD, and also by the fact that the move was mutually agreed.

Bobby Wititjpuru was a key Aboriginal person involved in setting up the separate community on Auvergne which became known as Bulla Camp. While claiming it was his initiative he rejected any discontentment with their relations with Fogarty:¹³

¹³ A white visitor to Bulla Camp soon after it was set up reported that a group (including Bobby and others from Bulla) which she accompanied to the station homestead to collect water piping for the new camp, experienced hostile treatment from white station workers. However, in contrast to the station workers' behaviour, Lloyd Fogarty 'was quite amenable to Bobby and his request for materials' (personal communication, Di Hafner, December 1999).

DC: And this place here at Bulla, why did you mob move over here to Bulla?
 BW: Well, I bin ask him Fogarty. He's only one bloke, Fogarty, Lloyd Fogarty. I bin ask him could I shift up there and stop way from you longa Bulla. "Oh yeah", him bin say, "you can stop there, make 'im Aboriginal place". This place here.
 DC: Why did you want to move from the station?
 BW: Well, nothing wrong!, I bin just ask for it, that's all. He was alright la [to] me, old Fogarty. And everybody bin alright - they bin give me place alright, "you can stay there". That's the good word, they sit down, you know, too much noisy longa station. Make im lotta noise.
 DC: What kind of noise? What from?
 BW: Oh, playabout.
 DC: Yuwayi.
 BW: Play and everything too close la station. More better here now.¹⁴

Lloyd Fogarty's explanation contradicts the assessments of Bobby and Jack Doolan that the setting up of Bulla Camp was entirely an Aboriginal initiative. Bobby's explanation that it was 'too much noisy longa station' from 'playabout', however, suggests that disruption caused by alcohol may have been an issue at the time. According to Fogarty it was *the* issue:

LF: That was in the sixties, I think, when citizenship rights came in and alcohol - that was a big turning point when Aboriginals were allowed to drink...they got the alcohol rights. And by that time there was alcohol available at Timber Creek and of course that wasn't far away and that got to be a problem very soon...they were coming into the camps, big fights...and stirred everyone up, and that was the downfall of them, really, on the stations. So, I talked to the elders, said "well this is no good - can't be bringing grog into the station - it'll have to be barred", so that was the - I started the Bulla Camp...I said..."you'll have to go up and camp on the river somewhere". So we decided on the location, up at Bulla Camp - good spot for a camp - plenty of permanent water and good sandy soil, and handy to the road so that they could go in and out to Timber Creek and get their grog and not come into the station at all.
 DC: So, it was actually your suggestion?
 LF: Yeah, and I made an agreement - I made an agreement - I've a signed agreement still somewhere. A signed agreement and I conferred with the directors of the company, and...made an agreement that they could have all that area for a camp - for a permanent camp. Oh, I made a few conditions - I forgot what they were, but, they signed that and we signed it and it got started off with that.¹⁵

The differences in these two accounts illustrate the capacity for divergent

¹⁴ Interview with Bobby Wititjpurru, 1995.

¹⁵ Interview with Lloyd Fogarty, 1995.

understandings to exist or develop between whites and Aboriginal people about the fundamental terms of their relationship. Why was this so? Was it a case of post rationalisation and if so, on whose part? Jack Doolan's account, which was written at the time, indicates that the Aboriginal community on Auvergne had clear intentions regarding establishing an independent community. Lloyd Fogarty, on the other hand, suggests that his decision to bar alcohol from the homestead community was the primary motivating factor. If so, the decision was a long time in the making, being some seven years after alcohol became legally available to Aboriginal people in the Northern Territory. Bobby's account, too, suggests that alcohol was an issue, but it is also possible that, given this, Bobby sought to articulate the desire for a separate community to Lloyd in those terms because it was a line of reasoning more likely to secure his cooperation. Whatever the original impetus for deciding to set up the community, what is clear is the existence, from the earliest stage of the process, of a clear Aboriginal vision and a commitment to seeing it succeed. Bobby's perseverance, in particular, was a considerable factor in eventually establishing permanent community facilities at Bulla.¹⁶

Relations in a time of change

In reality, the differences in these accounts (recorded in the 1990s) are probably the result of the fact that both, at least in terms of a summation of the times, were right. Pastoralists didn't want the extra costs, disruption and responsibility for on-station Aboriginal communities which included relatives and dependents, and the Aboriginal communities themselves wanted independence from oppressive or restrictive station

¹⁶ As has been the case with many excisions from pastoral leases, significant administrative and political impediments were faced in the process and it took many years of perseverance before title to the land was eventually transferred and community development funding secured.

rule, though not at the expense of having to leave their traditional lands. That this process of separation occurred over an extended period (from 1966 to 1978 in the VRD) and under highly varied circumstances is testimony to the considerable variation which existed in the nature and quality of relations on different stations.

While Auvergne and Victoria River Downs represent examples of Aboriginal action to establish independent communities away from station homesteads, this was not a universal Aboriginal agenda at the time, particularly if it risked being alienated from their traditional lands. In July 1972, following a dispute between workers and the manager of Montejinnie Station, the whole Aboriginal community walked off and went to Wattie Creek. The workers had demanded the dismissal of an incompetent head stockman but instead the manager had dismissed three of the workers for refusing to obey the head stockman. After hearing both sides, the owner, Bill Crowson, sacked the head stockman, resulting in the manager resigning in protest.¹⁷ The Aboriginal community promptly returned to Montejinnie with Crowson. Writing of the incident, District Welfare Officer, Jack Doolan commented that in Crowson

...we have a near perfect example of the old, paternalistic type (and often much maligned) pastoral employer, who has succeeded in having the Aboriginal people return to his station, despite the efforts of various militants at Wattie Creek to induce them to stay. Housing, normal facilities and amenities at Montejinnie are not good and never have been. Yet the people were overjoyed to be going "home", and Mr. Crowson was glad to have them, for reasons that were not only to make a profit at Montejinnie. They were Crowson's "mob" and they "belonged to Montejinnie". At the same time, as Mr. Crowson was collecting the Montejinnie people, Mr. Paul Vandeleur of Camfield Station arrived at Wattie Creek in an endeavour to obtain some Aboriginal employees. Mr. Vandeleur left emptyhanded and complaining...Yet Camfield Station has excellent housing and associated facilities for aboriginal employees. The significant difference is obvious. At Montejinnie, there is mutual communication between employer and employees and their families. Despite comparatively poor housing and living facilities, they are able to exist as family groups and

¹⁷ Doolan nd.: 'Report to Regional Welfare Officer (N), 1st August 1972, by District Welfare Officer, Jack Doolan'. Doolan commented that the reason given for the manager's resignation was that his orders to Aboriginal workers had been overridden.

*retain their personal identities as people. At Camfield, there is little or no communication between employer and employees. Despite better housing and conditions than Montejinnie offers, the aboriginal people, when they can be persuaded to work at Camfield, are strictly employees only, with no personal identity as people. It would seem obvious on the basis of what was demonstrated at Wattie Creek, that to the Aboriginal people, retention of their own identity, and an ability to communicate with their employer, is a more important factor than to live in pleasant homes and cease to exist as people.*¹⁸

In 1972, then, the examples of Victoria River Downs, Auvergne and Montejinnie Stations suggest that there were a number of different structures of intercultural relations operating on pastoral leases in the VRD, each attuned to the particular nature of communication and respect in relations between pastoralists and Aboriginal people. Montejinnie showed that a coexistence was still possible under the older paternalistic conditions but the direction of change in policy and the effects of the economic restructuring of the pastoral industry meant that it would not be possible for much longer.

By late 1973, after a year and a half, the former VRD station community returned, as they had intended, to their own block excised from the station. By this time independent communities had also been established at Bulla on Auvergne as well as at Kildurk Station, which had been purchased for the local Aboriginal community. The emergence of these independent communities coincided with the shift in policy from assimilation to self-determination and the corresponding bureaucratic shift towards a community development focus.

However, the different conditions of each community exposed the dilemmas of trying to become truly independent, and of achieving the associated aim of obtaining enough land to run their own cattle or other economic enterprises. Of the communities

¹⁸ Doolan nd.: 'Report to Regional Welfare Officer (N), 1st August 1972, by District Welfare Officer, Jack Doolan'. See also Doolan 1977:108-9.

mentioned, only three (Daguragu, Yarralin and Kildurk) had enough land to attempt Aboriginal cattle enterprises, while Bulla comprised an area sufficient only for community infrastructure needs.¹⁹ Further issues were the unsatisfied needs of those for whom the community locations were not their traditional country and continuing concerns about the safety of cultural sites. It was clear that further solutions were required to address the demands for land and the protection of cultural sites which Aboriginal communities sought.

Land rights, sacred sites and the reinvention of pastoralists as a disadvantaged constituency

While the strikes and the subsequent establishment of a number of independent Aboriginal communities on land excised from pastoral leases focused attention on Aboriginal desire for land and autonomy, it was not until the passing of the *Land Rights (Northern Territory) Act, 1976* that the potential significance of the continuing cultural attachment of Aboriginal people to the land began to be fully apprehended by white Territorians. The *Land Rights Act* was unprecedented, representing the bipartisan limits of the Commonwealth's new found resolve to address at least some cultural needs for land in the Northern Territory. Although focused on existing Aboriginal reserves and unalienated Crown land, this still meant that approximately 50% of the area of the Territory was available for claim.

¹⁹ The group who set up Bulla wanted enough land for a cattle enterprise but Lloyd Fogarty was 'adamant that 5 to 10 acres would be sufficient'. At the same time, an offer by Assistant District Welfare Officer, Jack Doolan, for the group to move to the next door Kildurk Station, which had recently been purchased for Aboriginal use, was rejected by the group. The group's 'second choice' after Auvergne was another adjacent station, Bulloo River (Doolan nd.: Memo to Director of Welfare by Assistant District Welfare Officer, Jack Doolan, 29 June 1973). Significantly, Bulloo River was country to which the Auvergne group had marriage and land-owning connections, and is located on the same important Dreaming track that Auvergne Homestead and Bulla Camp are.

Moreover, the *Land Rights Act* signalled that cultural and spiritual attachment to land was to remain a focus of future Indigenous affairs policy, at least in the Northern Territory. In addition to making areas available for claim by Aboriginal groups who could demonstrate traditional ownership,²⁰ the Act established presumptive or 'blanket' protection for sacred sites, meaning that *all* sacred sites on *all* land in the Northern Territory attracted protection under the Act without having to be formally identified and 'declared'.²¹

The land claim process impacted on all regions of the Territory, including the extensive pastoral regions. Non-Indigenous owned pastoral leases were not available for claim, however claims were possible over pastoral leases purchased by or on behalf of Aboriginal communities. In the VRD, Kildurk Pastoral Lease, purchased for Aborigines in 1973, thus became available for claim, as was the subsequently purchased Fitzroy Pastoral Lease. The VRD also contained a number of areas of unalienated crown land, including a sizable 'common' area surrounding the township of Timber Creek and a network of one kilometre wide stockroutes which traversed pastoral lands²². Thus, a good deal of the local white population witnessed or were involved in land claims, occasionally as formal objectors, although experience suggests that local whites have been reluctant to do so, preferring to express their criticisms through alternative political and public channels. A further impact of the Act was that it was accompanied

²⁰ Proof of 'traditional Aboriginal ownership' in the *Land Rights Act* requires that the claimants be

'a local descent group of Aborigines who: (a) have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and (b) are entitled by Aboriginal tradition to forage as of right over that land...

²¹ The *Land Rights Act* makes it an offence to enter or remain on land in the Northern Territory that is a sacred site (s.69(1)) and grants the Northern Territory Government the power to make laws 'for the protection of, and the prevention of desecration of sacred sites in the Northern Territory...' (s.73(1)) – the combined effect of which is to establish an overriding Commonwealth standard of presumptive protection for all sites in the Northern Territory.

²² Figure 2 shows areas in the study area, including a number of stock-routes, which have been successfully claimed under the *Land Rights Act* and converted to Aboriginal Freehold title.

by a recognition of the needs of Aboriginal people living on pastoral leases not available for claim, to secure areas on which to establish small, permanent communities, called 'living areas' or 'excisions'. Many white pastoral lease owners have opposed the establishment of excisions on their properties, contriving, with the help of inequitable Northern Territory legislation to reduce the process to a painfully slow and frustrating experience for Aboriginal applicants (see below).

It would be an understatement to suggest that many white Territorians opposed the legislated provision of land for Aboriginal people. The *Land Rights Act* was seen as a crushing imposition foisted on the Territory by the Commonwealth Government. Within five years of its enactment approximately 46% of the Northern Territory was either scheduled as Aboriginal Land or under claim,²³ providing a rallying point which has secured an unbroken succession of victories for the conservative Country Liberal Party (CLP) since the first elections under limited self-government in 1978. In doing so, the CLP has successfully harnessed the parochialism of the Territory and its implicitly racist frontier ideology in constructing a genre of 'us' and 'them' discourses in which the 'us' means white Territorians and the 'them' means variously, the Federal Government, 'southerners' in general, or Aboriginal Territorians. During the CLP's 1980 election launch, Chief Minister, Paul Everingham declared: *'No one from down south is going to take us over or tell us what to do'* (quoted in Gibson 1994:8). In 1983, after calling a snap election in response to the Federal Government's announcement of its intention to hand back the Commonwealth-administered Uluru (Ayers Rock) National Park to its traditional owners, CLP campaign brochures stated:

Handing over Ayers Rock to a small group of people, entirely without

²³ Under the Act, former Aboriginal Reserves were automatically scheduled as Aboriginal Land. Of the areas subject to claims, the majority was unalienated Crown land comprising semi-arid desert land unsuitable for commercial grazing or agricultural purposes.

consultation is Canberra's king hit at the people of the Northern Territory. The Federal Government gave away ownership of our greatest natural wonder without even consulting us (quoted in Gibson 1994:22).

The announcement came on the heels of a similarly controversial 'threat' to another Territory natural icon in the form of an Aboriginal claim over Katherine Gorge National Park, to the east of the VRD. White Territorians rallied to the call that land rights was out of control and that they were its victims. And with claims over stock-routes and continued pressure for Aboriginal living areas on pastoral leases, pastoralists in the Northern Territory came to increasingly identify and portray themselves as a constituency specially disadvantaged by land rights.²⁴

The passing of the *Northern Territory Aboriginal Sacred Sites Act 1978* close on the heels of the *Land Rights Act*, ensured that the legislation was opposed in a similar manner by the local white community. Sacred site 'claims',²⁵ as these are often referred to, are regarded suspiciously by local whites, who view sacred sites as a contrived, de facto means of claiming land.

Staying on country: the struggle for community living areas on pastoral leases

Such concerns have at least some basis in truth. The Wave Hill strikers had grounded

²⁴ An anti-land rights group formed in the Katherine-VRD area called 'Rights for Whites', which Makin (1983:159) describes as 'a serious attempt by a group of pastoralists to counter what they saw as the apparent disproportionate generosity of the Whitlam Government towards Aborigines' (see also Merlan 1991b). Similar claims of white disadvantage followed the consideration of land rights legislation in Western Australia in 1983-4 and nationally in 1985 (both initiatives abandoned by their respective governments), and also following the Mabo and Wik decisions on native title in 1992 and 1994. For instance, in relation to community debate in 1997 regarding the Wik decision, National Party Federal M.P., Peter McGauran claimed that 'farmers are the most exploited group in Australia, not Aborigines' (ABC Radio JJJ, 6/5/97).

²⁵ Use of the word 'claim' in this way has a double meaning – 'claim' in the sense of the *Land Rights Act's* principal function of allowing areas of land to be claimed on the basis of traditional ownership; and 'claim' in the sense of an unproven assertion.

their choice of Wattie Creek in terms of the proximity of important sacred sites which they wanted to live near and protect. Now with the passing of the *Land Rights Act* came further moves to establish new outstation communities on pastoral leases. In the VRD the establishment of Kilwi on Fitzroy Station in 1979 and Lingarra on Humbert River Station in 1980, occurred, like Wattie Creek, initially without the permission of pastoralists. The locations chosen (as is true of all Aboriginal communities in the VRD) included totemic features of the landscape, the fact of which was used to affirm their right under Aboriginal Law to occupy the areas. Having become aware of the new *Sacred Sites Act*, which was perceived as a recognition of Aboriginal Law by 'Whitefella Law', custodians sought to validate their actions by requesting registration of the sites on which the communities were located as well as a small number of important and vulnerable sites in the surrounding area. Registration of the sites can be better understood in light of the fact that the demonstration of 'primary spiritual responsibility' over sacred sites is, under both Aboriginal Law and the procedures of the *Land Rights Act*, an aspect of the proof of 'traditional ownership' of land.

The setting up of Lingarra and Kilwi highlighted the failure of the *Land Rights Act* to address the desire of Aboriginal people to continue living on pastoral lands. The situation on pastoral leases needs some further explanation here. Pastoral leases in the Northern Territory contain a special clause (or 'reservation') establishing rights for Aboriginal people to continue to live, hunt and forage on the land²⁶. The reservation dated from the 1850s when the Northern Territory was part of South Australia and

²⁶ The reservation gave 'to all Aboriginal inhabitants of the Northern Territory and their descendants full and free right of ingress, egress and regress into, upon and over the leased land and every part thereof and in and to the springs and natural surface water thereon, and to make and erect thereon such wurlies and other dwellings as those Aboriginal inhabitants are, from time to time, accustomed to make and erect, and to take and use for food birds and animals *ferae naturae* in such manner as they would have been entitled to do if the lease had not been made' (Northern Territory Land Councils 1986). In other states, such as Western Australia and Queensland there was no provision for Aboriginal access and usufructory (land use) rights on pastoral leases – a fact that has greatly hampered the ability of Aboriginal groups to maintain a physical connection with their traditional lands.

resulted from concern over the expulsion of Aboriginal people from their traditional lands as settlers took up leases from the Crown (Reynolds 1993).

However, with increases in citizenship rights and the 1965 decision to grant award wages to Aboriginal workers, came pressure to wind back Aboriginal 'special privileges' on pastoral leases – moves which Rowley suggests were linked with the more significant objective of pastoralists to see their leases converted to freehold (Rowley 1971:201). Pastoralists expected to be able to 'push all the useless [Aboriginal] people off the stations when the award wage comes' and succeeded in weakening the reservation by excluding Aboriginal 'descendents' who were not 'full-blood' in 1964 (1971:201), and removing the specific right to build dwellings in 1966 (Northern Territory Land Councils 1986). In the early 1970s the reports of Gibb (1973) and Woodward (1973, 1974) recommended provision for Aboriginal community living areas on pastoral leases, as well as the retention of the existing reservation. However, provisions enacting Woodward's recommendations in the original Northern Territory Land Rights Bill 1975 never made it into the final *Land Rights Act* due to strong opposition from pastoralists and the Northern Territory Government²⁷.

Since Territory self-government in 1978 the legislative provision of living areas on pastoral leases has been thwarted by successive CLP Governments, determined to prevent a 'land rights approach' to the issue. In 1978 non-compulsory provisions allowing pastoralists to sub-lease areas for community living areas were inserted in the *Crown Lands Act*, but these measures were later criticised as inadequate in the 1983

²⁷ Northern Territory Chief Minister, Ian Tuxworth commented in Parliament:

'The reference in the Bill giving Aboriginals access and squatting rights around natural waters and bores on stations is going to cause hell in the countryside because I have not met any station owners yet that will have anything like that causing friction in our community. We have come to a disappointing time where we have outsiders, do-gooders, would be's if-they-could be's who are dividing our community into two camps, the black and the white' (NT Hansard, 22 October 1975).

review of the *Land Rights Act* by Toohey J, who recommended specific legislation to deal with the issue (Toohey 1984). In 1985, Chief Minister Tuxworth introduced restrictive Ministerial Guidelines for the negotiation of excisions which, among other deficiencies, required the consent of pastoralists and excluded Aboriginal people who, regardless of circumstances, had not been resident on the station in the past 10 years, or those who had 'an interest in land elsewhere or who lease or rent land or housing in a town' (Burke 1991:7). Frustration over this scheme resulted in the 'Memorandum of Agreement between the Commonwealth and the Northern Territory on the Granting of Community Living Areas in Northern Territory Pastoral Districts' and the subsequent *NT Miscellaneous Act Amendment (Aboriginal Community Living Areas) Act 1989*. However, far from improving the fairness and workability of the excision application process for Aboriginal people, the changes maintained the restrictive eligibility criteria of the 1985 Ministerial Guidelines, introduced additional procedural restrictions, and provided for unreasonable Ministerial discretion with inadequate grounds for appeal of the Minister's decision (Burke 1991).

Meanwhile, in contrast to the plight of Aboriginal people wishing to gain excisions on pastoral leases, the move to freeholding pastoral leases has met with some success with a number of leases having already been converted to freehold in the Northern Territory.

8.3. Sacred sites and scepticism

While the intense culturally-focused political struggle over land has dominated intercultural relations since the 1960s, within the parameters of this struggle we can see how constricted intercultural communication has fuelled scepticism amongst pastoralists towards more recent Aboriginal concerns about sacred sites. Prior to the

1970s, sacred sites were an almost invisible issue for pastoralists. Most claim they have seldom been told about them despite long work associations with Aboriginal employees, and this indicates to them a perceived lack of Aboriginal concern - the implication being that more recent concern is manufactured for political or other reasons.²⁸ Most will also point out that many areas stopped being accessed by Aboriginal people, particularly after resident communities left the stations, arguing that this also indicated a lack of interest in those areas.²⁹

LF: [sacred sites] seem to be occurring in increasing numbers, you know. There was just one or two sites early on...which you could recognise could have been possibly of certain significance - meeting places or something. But they've got now sort of more and more and more, you know, and vast areas of country where there's no one ever goes - there's none there. But when there's a bit of activity in an area they seem to decide that there's a sacred site there, which I think is why there's so much objection to so many sites being registered around the place. Well, I would like to know - I think most people would like to know what the real significance is of these sites and why they haven't been registered earlier or...some mention made of them.

DC: But before you were saying that Aboriginal people didn't used to mention things like that to you or to other non-Aboriginal people - like the existence of sacred sites.

LF: Well, oh, not sacred but, you know, some suspicion about areas, yeah.³⁰

So what from an Aboriginal point of view was a relationship in which they regarded Lloyd as sympathetic to and understanding of Aboriginal culture, from Lloyd's point of view left him tentative and unsure in the face of evidence which conflicted with his limited experience of the detail of Aboriginal cultural matters. What emerges as the main source of the relationship's strength is the personal trust and understanding

²⁸ Interview with Lloyd Fogarty, 1995; see also Liberman 1985: 250.

²⁹ Interview with Lloyd Fogarty, 1995.

³⁰ Interview with Lloyd Fogarty, 1995.

based around the working relationships of station life and the needs of Aboriginal workers and their dependents. This was what Doolan identified as the basis of the relationship between Bill Crowson and the Aboriginal community at Montejinnie. And presumably, it was with regard to similar sentiment that, in 1984 when a land claim was heard for an area of land surrounding the township of Timber Creek, known as the Timber Creek Common, Lloyd expressed his support for the claim at the public hearings.³¹ Similarly, in acknowledging Lloyd's lack of knowledge about the detail of religious matters, it appears to be the significant sentiment expressed when people such as Laurie Roberts sometimes state that they 'still have old Fogarty for witness'.

The reality was that cross-cultural relationships based on the 'unwritten contract' on pastoral leases didn't require a deep cultural understanding of each other and so it was that now, with relations severed, that the lack of cultural understanding by whites became translated into increasing scepticism of emerging Aboriginal cultural concerns about land.

Lack of understanding of Aboriginal motivation/desires and agency

This scepticism regarding sacred sites flows from the fact that the contemporary concerns of Aboriginal people which were emerging in the wake of the passing of land rights and sacred sites legislation in the late 1970s, did not coincide with their knowledge or remembrances of Aboriginal station workers. Most European pastoralists

³¹ It must be said that his support at the time was unusual considering the general hostility of local whites to the claim. For example, when Ian McBean, the owner of Bradshaw Station, was asked during the land claim hearings whether he would object to the claimants receiving 132 square kilometres of his 14,500 square kilometre holdings he replied,

'I am placed in a position, your Honour, where many business people here are going to shoot me down in flames if I say one thing. On this side all my past, present and future [Aboriginal] employees are going to shoot me down on the other' (Timber Creek Land Claim transcript, p453).

retain paternalistic attitudes towards Aboriginal people, and have difficulty regarding them as active agents in control of their own affairs. How could they so effectively challenge the *status quo* without the interference or prompting of misguided or disaffected whites?³² Evidence was there too in the 'Communist involvement' at Wattie Creek³³ and later, in the form of the 'white stirrers' accused of being behind the VRD walk-off (see Doolan, nd).

We have seen how pastoralists have argued that Aboriginal people are vulnerable to manipulation because they are inherently suggestible. In relation to Wattie Creek, pastoralists even went as far as to argue that the suggestibility of Aboriginal people made them unreliable as witnesses in determining their own wishes. For instance, the NTCPC urged caution on the Federal Cabinet in believing the findings of the Sessional Committee on Integration of the N.T. Legislative Council following the Committee's visit to Wattie Creek to consult with the Gurindji.

However, by raising the issue of the vulnerability of Aboriginal people to manipulative outside interests, pastoralists invoke a model of power relations which they avoid applying to their own cross-cultural relationships. Instead they deny that pastoralists abused their power and choose to believe what to them is an accepted truth of the pastoral relationship – that, above all else, Aboriginal people needed and wanted the protection, goods and jobs which the stations provided them.³⁴

³² This is a persistent theme with white pastoralists in the VRD. See, for example, interview with Ivor Hall, NTAS TS60/1, 1970:22; interview with Mr and Mrs Noel Hall, NTAS TS230, 1978:28.

³³ See above in this chapter at note 5. It is worth noting here that the cross-cultural consultation practices of the main 'Communist' involved, Frank Hardy, were far more culturally sensitive than those of pastoralists and many government officials of the time (see Hardy 1968). In particular, Hardy allowed sufficient time and 'space' for internal Aboriginal processes to occur and sought to give Aboriginal concerns a direct 'voice' through his extensive use of a cassette tape recorder.

³⁴ See, for example, interview with Mr and Mrs Noel Hall, NTAS TS230, 1978:28.

Lack of understanding of how cultural attachment to land is maintained, including by groups alienated from the land

On yet another level, such scepticism lacks an understanding that cultural attachment to land, particularly with respect to sacred sites, is maintained through a variety of cultural practices and can be maintained remotely from the land or sites in question. Facilitated through strong oral traditions and the role of ritual in maintaining cultural responsibilities towards sites, this ability has been of critical significance to Indigenous peoples in accommodating European appropriation and occupation of land.

Pastoralists, however, remain trapped by stereotypical 'traditionalist' views of Aboriginal culture which draw on comparisons with past experience of station Aborigines who they regard as having been more traditionally-behaving and culturally-knowledgeable than younger generations. For example, Lloyd Fogarty's view that alcohol 'was the downfall of them, really, on the stations'³⁵ is a widely held one amongst pastoralists, reinforcing similar sentiment regarding Aboriginal 'traditional' culture in general, which is seen as disappearing or at least rapidly decaying. Consequently, support for initiatives in Aboriginal heritage protection and land rights is regarded as misplaced and inappropriate. Land rights, in particular, was seen as a misconceived philanthropic crusade by whites from 'the south' who had no experience or understanding of 'real' Aborigines.³⁶

³⁵ See page 260 above for the full quote.

³⁶ Such reaction echoes longstanding tensions, experienced throughout the period since pastoral occupation, between pastoralists in remote areas and those variously associated with churches, government, unions, etc, who were critical of the treatment of Aboriginal people on the stations (see Reynolds 1998).

Lack of understanding of processes of cultural change

A closely related critical error in white understanding of Aboriginal cultures is to overlook the significance and validity of processes of cultural change – of the dynamic nature of *all* cultures. As discussed above and in earlier chapters, Euro-Australians hold on to deeply entrenched stereotypes which regard ‘traditional’ culture as a concept frozen in time and in comparison to which contemporary culture is seen as increasingly impoverished and corrupted by the inevitable assimilatory forces of a superior Western culture.

8.4. Auvergne since the 1980s

A continuing lack of communication about sacred sites

One of the unintended effects of the policy of self-determination and the enacting of special legislation for land rights and sacred site protection, was to entrench a pattern of intercultural relations on pastoral leases within which custodians continued to avoid raising sacred site issues. No doubt the tensions and ill feeling which characterised pastoralists’ reactions to these changes would have done little to alter the fact. The result was that communication between the two about Aboriginal cultural concerns remained low even as such concerns were attracting increasing attention from governments and their administrations.

For a while sacred sites remained of largely abstract concern to pastoralists. During the first five years’ operation of the *Sacred Sites Act* from 1979, the incidence of requests for sacred site registrations in the VRD remained very low and many stations did not experience any requests over the period. Many pastoralists were thus still able

to claim that Aboriginal workers never mentioned sacred sites to them. A good example is Alan Andrews, the current manager of Auvergne. Although he has only been at Auvergne since 1993, he had managed the adjacent Newry Station since 1981. His account of Newry in the early 1980s indicates a complete absence of sacred sites issues being raised despite an increase in the physical development of the station as a result of a Territory-wide stock disease eradication program called BTEC:³⁷

*we put fences up and roads through and a lot of portable yard sites where machinery hadn't been before, put the bins up, and yard sites - roads into yard sites – there wasn't a track, there was just nothing there. You know, the country was opened up because of the BTEC program. Previously that was all horses. 'Cause of helicopters and BTEC it got out of hand and we had to get our portable yard and that was areas that hadn't been touched for years and years because there wasn't even a road in that country. And there was never a query. And they used to help put the yards up, because we were half and half - half Aboriginal and half European camps. Without any problems - without any thought - without any, yeah, not problems - without anybody saying "we don't want you here" or "this tree's sacred" or something. It just never occurred to us - we never thought about it.*³⁸

Continuing relations on Auvergne

When Alan moved to Auvergne Station in 1993 he came to a very different situation with respect to relations with local Aboriginal people. At Newry, the former Aboriginal station community had moved to Kununurra, about 60km away, and only Aboriginal stockmen lived on the station. At Auvergne, however, with a reduced employment of

³⁷ The Brucellosis and Tuberculosis Eradication Campaign (BTEC) involved the testing of all stock in the Northern Territory, requiring mustering in many areas of pastoral leases which were not normally mustered due to difficult access.

³⁸ Interview with Alan Andrews, 1995.

Aboriginal stockmen and the on-station presence of Bulla Camp as a permanent community complete with health and education facilities, relations between Alan and the Aboriginal community have centred on access to the station for hunting and fishing:

And here [at Auvergne], I guess, the whole community from Bulla Camp comes through the station often with their fishing and hunting excursions into Auvergne. And the Bulla Camp - they always stop and ask and let us know they're going through, and let us know where they're going so we know what their movements are. So, that's a very good system, and doesn't cause any hard feelings between the two groups - cause we each know the other one's thoughts, and what they're actually doing.³⁹

In particular, a close working relationship developed with a senior traditional owner of Auvergne country, Joe Long, in managing access to the station.

At Gregory's [Yard], [the senior traditional owner] asked me to change the lock on [the gate]. Now someone's busted the lock. So someone...that he doesn't want there, has gone in. Because he's given anyone that's allowed in there the combination to the lock. So, someone else has gone in there who he doesn't want to go in there, and he's concerned - he said he's concerned about his sacred sites. But that's something they have to sort out...there's no clear cut way that we can do that.⁴⁰

The statement that concerns about sacred sites is 'something they have to sort out' illustrates a continuing taken-for-granted attitude that traditional interests exist which need to be accommodated in the running of the pastoral operations but which remain the preserve of those responsible under Aboriginal Law. This is also expressed elsewhere in the interview, this next example concerning Alan's knowledge of traditional responsibility for land on Newry Station, which he managed prior to coming

³⁹ Interview with Alan Andrews, 1995.

⁴⁰ Interview with Alan Andrews, 1995.

to Auvergne:

DC: Were you aware, at that time did you know who the custodians of Newry were?

AA: No, not really, I know, I knew the ones who [inaudible] where they'd come from, but ah, the majority of it was just something between themselves - who actually came from the country or who had interest in it.⁴¹

Aboriginal accounts of the time also express this as a taken-for-granted matter. The following is from Bobby Witiitjpuru:

DC: And those managers, those owners - they know about that Dreamin'...

BW: No, he don't tell nothing. That's our business to do.

DC: Yuwayi [yes]. But did your mob tell him about it?

BW: Yeah. They know, but they didn't believe. Mmm...

DC: Yuwayi. That's what he reckoned eh?

BW: Yeah. Ah well, that's alright.⁴²

The fact whites didn't believe was alright, it seems, as long as Aboriginal people were not impeded from carrying out their cultural responsibilities. This was viewed as an issue as of right. Bobby Witiitjpuru again:

DC: What about learning [teaching young people] all that country - that sacred site and everything?

BW: Yeah. He's [manager] alright, they alright. They didn't interfere. Just let him [Aboriginal people] do it everything. See? We bin blackfella - well we gotta - they got to let us do it too!⁴³

Changes in Aboriginal access to Auvergne

Nevertheless, there have been significant changes in the pattern and extent of Aboriginal access to Auvergne for cultural purposes. Most day to day activity now

⁴¹ Interview with Alan Andrews, 1995.

⁴² Interview with Bobby Witiitjpurru, 1995.

⁴³ Interview with Bobby Witiitjpurru, 1995.

occurs in the vicinity of Bulla and there is a corresponding lack of work-related access to other parts of the station. Much time and energy is also spent travelling to and from service centres such as Timber Creek (60 kilometres east) and Kununurra (180 kilometres west). A second factor is the scarcity of vehicles, particularly 4-wheel drive vehicles, needed to access more remote or inaccessible areas of the station. And even where vehicles may be available other factors may prevent access, such as the increasing amount of fencing and locked gates on the station. Fences and locked gates have been located mainly to prevent unauthorised access by outsiders, particularly non-Indigenous intruders, but these also make access for local Aborigines more difficult. Similarly, where mustering is being carried out on the station, access is discouraged. So without taking into account any intentional restriction of Indigenous access, it can be seen that access has been significantly reduced. On other stations where there is no longer a close resident Aboriginal community or established cooperative relations with pastoralists, restrictions on access have been more profound and disadvantageous to Aboriginal groups.

Another change which has occurred over this period is a significant increase in the number of outside interests which have sought access to pastoral leases. Foremost amongst these have been mining companies, which, in the VRD, have greatly increased exploration activity on pastoral leases, including Auvergne. Others include various contractors, government officers and members of the public. This has prompted Aboriginal custodians to seek to ascertain what is happening and to ensure that sites are not damaged.

Since the passing of the *Sacred Sites Act* there has also been an active pursuit of custodians for consultation about proposed activities and to participate in sacred sites clearances in accordance with provisions of the Act. This has added a burden to custodians in the form of increasing claims on their time. But it is still commonplace

that activity takes place without any consultation with custodians and that sites are sometimes damaged as a result.

On Auvergne, for example, there have been a number of incidents which have resulted in potential or actual damage of sites by outside interests not connected with the station management. This has prompted custodians to seek support in protecting sites from the AAPA and the Northern Land Council. No longer is a good relationship with a pastoralist in itself sufficient to ensure that sites are protected.⁴⁴

The registration of sites on Auvergne

While the implicit acknowledgment by whites of Aboriginal cultural autonomy has been continually tested by custodians in various ways over the years, it has mostly been against fairly modest expectations of the extent to which pastoralists would be prepared to accommodate their concerns. Against this background, the *Sacred Sites Act* has provided the means for securing positive external support and intervention in protecting sites on pastoral leases. Over the past three years an extensive program of registering sacred sites has been undertaken by Aboriginal custodians on Auvergne.⁴⁵ Interestingly, the impetus for the registrations came not from concerns about pastoral activities, but as a direct result of damage caused to a sacred site by a mining company engaged in exploratory sampling work on the station. The company at first

⁴⁴ Pastoralists too, complain about the lack of control or consultation they receive in relation to the access of outside interests such as mining companies and government officials. Sometimes the concerns of pastoralists and custodians coincide. For example the manager of Auvergne sought the cooperation of custodians to prevent the Parks and Wildlife Commission from establishing boat access to the Victoria River on a part of the station which was both important for management purposes and of considerable Aboriginal cultural significance. Neither party wanted public access to the area (field notes of the author).

⁴⁵ It is still not commonplace for custodians to request this kind of protection on pastoral stations in the Northern Territory. In the case of Auvergne there were contributing factors in deciding to register a large number of sites, such as their good relations with the manager and the fact that there had been many years of building relations and trust with the AAPA.

failed to ensure that custodians were consulted about the proposed location of the works and then refused to halt the works when advised by custodians that the location was a sacred site (see also Case Study 2 in Chapter 10). The mining company was eventually prosecuted for its actions, but the thought that similar damage could occur in the future and the raised spectre of continuing mining company interest in the land caused custodians to seek to have sites registered on the station.

The initial focus of the registrations was the area where the site had been damaged and proposed the registration of a large area along the Victoria River, including cattle yards, bores and waterholes, comprising portions of two Dreaming tracks. The cooperative response of the manager, Alan Andrews, was, on his own admission, attributed to his knowledge and trust of the senior custodians of the sites, particularly Joe Long, with whom he had established a good relationship in protecting and avoiding damage to sacred sites. Laurie Roberts expressed appreciation for Alan's attitude along with an explanation of his family's actions:

LR: ...Alan Andrew there now...and when we bin ask him for that registering all that country he was real good.

DC: Yeah, he was.

LR: Because we don't mean that...we're going to take over the places but we lookin' after them [sacred] tree and register him some country to know what maybe mining or somebody might make big fight...and damage our Dreaming country, you know. That's all we worry. We don't worry them cattle bin walk la country - they bin walk for, might be forty, fifty year or a hundred year. And, I don't know, before we bin born eh?⁴⁶

It seems that on Auvergne at least, a form of relations has been struck which affords Aboriginal custodians the opportunity to raise and even determine issues in relation to

⁴⁶ Interview with Laurie Roberts, 18/7/95

protecting sacred sites. Moreover, this was achieved in the first instance without the need to invoke statutory assistance. The most significant element of this achievement has been the development of a relationship of trust with the Aboriginal custodians of the area and the preparedness of the manager to consult with the senior custodians about physical works on the station. What is also of interest is that the relationship has involved minimal disclosure of information about sites to the manager. Ultimately, it was the impersonal and random dangers posed by increased access to the station by mining companies which prompted moves by custodians to register sacred sites and therefore to make explicit, at least in terms of location, information hitherto withheld.

Mistrust of sacred sites legislation

However, having trust in the good intentions of known custodians is not the same as having trust in the legislation which empowers them to identify and protect sites. In this regard Alan expressed concern about the potential impact on pastoral operations, particularly through the need to involve field officers of the AAPA in obtaining sacred sites clearances for works on the station. He offered what is a common call by white landowners and managers: for there to be publicly accessible documentation of *all* sacred sites:

It's the vast [sacred site] areas that worry me, and the ones I don't know about that worry me. And...the laws protect sacred sites now so I can't really understand why they're not all put down...and made public.⁴⁷

The significant issues which render the documentation of *all* sacred sites impossible will be considered separately below. For now it is worth making the comment that Alan

⁴⁷ Interview with Alan Andrews, 1995.

seems content enough in his own arrangements with custodians not to seek that they tell him where every sacred site is on Auvergne. It is the mistrust of legislation and its potential for abuse which are the touchstones of Alan's concern that all sacred sites should now be made public. The contrast in these two positions suggests a more complex background to his concerns, discernable as the slippage between action and rhetoric.

8.5. Underlying issues for pastoralists and Aboriginal people in recognising Aboriginal cultural interests in land

With the above discussion in place it is now possible to consider the issues which in the minds of pastoralists and Aboriginal people, remain as barriers, potential or otherwise, to achieving a genuine coexistence of interests on pastoral lands. In doing so I draw extensively on an interview with Alan Andrews conducted to discuss such issues. That his views represent a moderate example of those held more widely by white pastoralists in the Northern Territory is suggested by Alan's demonstrated cooperation with local Aboriginal people in protecting sites and permitting access for cultural purposes. However, in many fundamental respects, Alan's stated views are virtually identical with the concerns raised more recently by the Northern Territory Cattleman's Association in its submission and evidence before a Commonwealth Committee inquiring into Indigenous heritage protection legislation in Australia.⁴⁸

For Aboriginal people the most significant issues centre around the impacts of non-

⁴⁸ See NTCA 1998; Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund (Joint Committee Native Title, Proof Committee Hansard, 18 February 1998, pp NT1010-NT1023.

Indigenous land uses on cultural sites and the lack of satisfactory relations with pastoralists and other non-Indigenous land users, particularly with regard to gaining access to stations and being consulted about land use impacts on cultural sites.

The importance of good relations

Of central significance is the nature of the relationship between pastoral owners and managers on the one hand, and Aboriginal people with cultural interests in the land on the other. My own observations and those of many others have shown that there is little possibility of Aboriginal cultural involvement on pastoral leases being other than according to enforceable statutory rights⁴⁹ where there is no relationship based on trust and communication between the two parties (see also next chapter). In regard to this there is little doubt that the period of absence of Aboriginal people from some stations has become a factor in pastoralists' unwillingness and inability to develop relations with Aboriginal people traditionally affiliated to the area. In contrast, the good relationship which has existed between managers and Aboriginal people on Auvergne over the past few decades has resulted in a considerable facilitation of Aboriginal cultural use of the station. This has occurred largely without recourse or reference to the statutory rights of the Aboriginal people involved.

⁴⁹ In saying this I take the view that perhaps the most important consequence of enforceable statutory rights is to provide processes for establishing dialogue and voluntary agreement between pastoralists and Aboriginal custodians. These issues are discussed further in the following chapters.

8.6. Underlying issues for pastoralists

Concerns about potential impacts of cultural rights on pastoral operations

In expressing concern about the potential impacts of Aboriginal cultural rights on their ability to carry out pastoral operations without interference, pastoralists often contrast claims of their own ability to deal directly with Aboriginal custodians with concern about the arbitrary powers and potential for misuse of statutory rights regimes such as that of the *Sacred Sites Act*. Alan Andrews, for example, emphasises the practical difficulties posed by the *Sacred Sites Act*:

The problem is that you get to a stage where you can't do anything - you can't improve, you can't move, you can't put a grader through anywhere without seeing somebody from the Sacred Sites [Authority]. And...every time you go to do something you just can't do that - you can't put a pipeline through, you just can't put a track through, not even fight a bush fire in case you...run into something, you know - you got to put a fire out so you keep going with a grader, but you could be going through something, you shouldn't be there, or you knock...something.⁵⁰

Such concern is part of a broader set of concerns, long since embedded in the folklore of pastoralists, pertaining to outside interference with and intrusion on pastoral leases which they have traditionally regarded as their private domains. In this instance the concern is with the potential of governments to bureaucratically impose an oversight role in relation to Aboriginal heritage.

Concern over Aboriginal entitlement to access

A subsidiary concern is the question of who is traditionally entitled to access and use

⁵⁰ Interview with Alan Andrews, 1995.

areas of pastoral leases, again a longstanding issue because of the reservation for Aboriginal access and use of land that has been written into Northern Territory pastoral leases since the 1850s.⁵¹ Alan Andrews, for instance, articulated his concerns in the following terms:

*The problem is, we don't know who actually has a right to come here...I mean, does every Aboriginal have a right to come to Auvergne...to go fishing, or does just the Bulla Camp or traditional owners?*⁵²

A discussion followed regarding rights of access under the pastoral reservation (now included in the *Crown Lands Act, 1992*) and under the *Sacred Sites Act*. The former would appear to permit more general access while the latter restricts access to those entitled under Aboriginal tradition. Alan's initial response to this was to frame the problem as one of respect for the country:

*It's a real problem because the ones that live here, belong here, have respect for it. And it's just like white Australians, if they come to a strange place where they don't live, passing through, they'll leave their rubbish, they won't respect it, they'll just do what they want to do. And because they don't live there they don't care very much. And the Aboriginals are the same. They won't respect the country for the same reason. And it causes tension between myself and Aborigines because it's probably not these people [from Bulla] who are doing it or leaving rubbish - it's someone else who's come in. But how the hell do you know which is which. I don't know - it's only the Aborigines themselves know.*⁵³

Manipulation of Aboriginal custodians by outside interests

Later in the interview his response indicated a deeper concern that the current relationship is vulnerable to outside interests unsympathetic to the pastoral operation:

⁵¹ See at note 26 above in this chapter.

⁵² Interview with Alan Andrews, 1995.

⁵³ Interview with Alan Andrews, 1995.

*Yeah, we're probably concerned with it as well - does it stay that way? - can we keep this relationship going? We're just quite happy to keep going the way we are - it's quite good. But will there be a radical element come in and use sacred sites as a tool or a lever to make it very hard for the pastoral lease to actually work.*⁵⁴

Such concern again represents part of a folklore about outside interference with Aboriginal station communities that, as we have seen, was manifest in pastoralists' response to the Wave Hill strike and walk-off discussed earlier in the chapter. In that instance, the spectre of 'communist' involvement in the incident raised alarm bells that penetrated to the Cabinet level of the Commonwealth Government.⁵⁵ As we have seen, such arguments were contextualised by cultural assumptions about the 'suggestibility' of Aborigines.

View of Aboriginal culture as in decline

This line of reasoning is indicative of a more fundamental concern about the future of Aboriginal 'traditional' culture which the issues of land rights and sacred sites have managed to crystallize like no others. Simply speaking, most whites, and particularly those encountered in pastoral regions such as the VRD, follow a deeply entrenched tradition of belief which sees 'traditional' elements of Aboriginal culture as in a steady and inexorable decline.

There are many common observations based on the experiences of station managers which are offered as evidence of the veracity of a cultural decline. One of these is a belief that pastoralists have, in fact, shown more concern about looking after sites than Aboriginal people on the station. Of course, 'sites' here usually means those places

⁵⁴ Interview with Alan Andrews, 1995.

⁵⁵ See submission to Cabinet by the Minister for the Interior, 26 April 1968.

which station managers identified as such without corroborating information from Aboriginal custodians. These mostly include burial sites and rock art sites. The following is again from Alan Andrews:

[On Newry] we probably did more to try and protect rock art and grave sites than the Aborigines did, over that period of time. I don't know why either.⁵⁶

However, it needs to be noted here that Alan's concept of 'protecting' such sites conforms to the European paradigm of heritage protection rather than any understanding of Aboriginal cultural protocol. The following example relates to a burial site at which a number of engraved pearl shells had been placed:

Four or five times we asked for those shells to be taken back [by whites who had removed them] and they were. And yet, some Aborigines themselves came out and picked those shells up in later years, and took them away - which I didn't try to interfere with - it was none of my business. I just thought it was a shame they'd gone after all that time that I'd protected them. So they were just put in a bag and taken to Kununurra.⁵⁷

Here, Alan hasn't allowed for the existence of cultural differences in the ways in which such sites and burial artefacts are regarded by Aboriginal people.⁵⁸ Similarly, Lloyd Fogarty also noted an apparently casual attitude towards Aboriginal graves which he similarly assumed indicated a lack of concern:

they had a burial site where they used to bury them and they weren't very well marked - they didn't seem to mark the graves much. They knew where they were but they didn't seem to worry much about them.⁵⁹

⁵⁶ Interview with Alan Andrews, 1995.

⁵⁷ Interview with Alan Andrews, 1995

⁵⁸ Pearl shells, for instance, were valued personal items, given to boys who were going through initiation and often carved with totemic designs. The shells Alan refers to would have been placed on the owner's grave and were most likely picked up by a close relative of the dead person only after a lengthy period which would have rendered them safe to handle.

⁵⁹ Interview with Lloyd Fogarty, 1995.

A related observation which is usually remarked upon as indicating a lack of cultural interest is the non presence of Aboriginal people on stations or their failure to visit certain areas. Sometimes this is also is ventured as an indication that the traditional owners of the area have died out. When I spoke to him, Lloyd Fogarty's concern was that subsequent 'activity' by whites in an area, stimulated claims of sacred sites:

*...vast areas of country where there's no one ever goes - there's none there - but when there's a bit of activity in an area they seem to decide that there's a sacred site there.*⁶⁰

The usual object of such suspicion are younger Aboriginal adults who have generally had more limited experience working on stations and, as a result, are not as well known by managers as the older former workers with whom they had the opportunity to develop close relations and trust.⁶¹

Fear of the misuse of statutory powers against pastoralists

In such a climate, to empower Aboriginal people with respect to cultural interests in land invites the conclusion that, at some time in the future, the application of that power may be corrupted towards economic or other self-serving ends, and against the interests of pastoralists. Reaction to the issues of sacred sites and land claims by many whites already openly canvasses the existence of such misuses of power. As we have seen above, even people as sympathetic to Aboriginal interests as Lloyd Fogarty and Alan Andrews, expressed scepticism regarding the number of sacred sites which were being identified.

⁶⁰ Interview with Lloyd Fogarty, 1995.

⁶¹ For example, the manager of Bradshaw Station commented to me one day: 'I do query any Aboriginal custodians [for Bradshaw]...I've got no problem with those old blokes...Some of the younger ones I've got problems with...[They] get on the bandwagon' (personal communication, June 1995).

Addressing pastoralists' concerns

The above perceptions stand as significant issues which must be addressed if a lasting coexistence on pastoral lands is to be achieved. On one level, such perceptions are the product of the history of paternalism towards Aboriginal people in pastoral relations. However, since the pastoral era, paternalism more often lacks a personal framework and it is worth noting that the stridency of pastoralists' views appears inversely proportional to the level of personal familiarity and contact that exists with Aboriginal custodians. At the same time many of the concerns of pastoralists are directed at what they perceive as a seemingly flawed and obstructive bureaucracy which has the potential to drastically interfere with pastoralists' rights over their land.

These results suggest the conclusion that in order to achieve cross-cultural understanding and cooperation, there appears no alternative to the necessity of establishing meaningful cross-cultural relationships. Such a conclusion does not bode well for the many pastoral stations where no constructive relationships or determination to develop such relationships currently exist. It is these cases which justify the necessity for government policy on Indigenous rights to include statutory measures and supported negotiating processes.

8.7. Underlying issues for Aboriginal custodians***The primacy of Indigenous law***

From an Indigenous perspective, not surprisingly, these issues appear starkly different. Underlying these differences is an unshakable belief that their cultural interests on pastoral leases are their own business which should not be interfered with by

pastoralists. Such a belief is also apparent in the approach of Aboriginal custodians towards sacred sites protection legislation, which they see as supporting/acknowledging Aboriginal law. This contrasts with the Euro-Australian legal perspective which regards such legislation as bestowing statutory rights which are, consequently, regulated by the letter of the law, even where Indigenous law is in conflict.⁶²

Maintaining a separate Indigenous domain

Aboriginal Law forms the core of a separate Indigenous cultural domain to which Europeans have been granted only limited access. Aboriginal people have largely withheld cultural information relating to land, particularly with respect to sacred sites. In this regard, their estrangement from the stations made little difference to Aboriginal practices of maintaining a separate domain. However, the significant and increasing intervention in the affairs of the newly independent communities by government Administrations and private sector interests (such as mining companies) has created an ongoing need for practices designed to influence the outcomes of cross-cultural interactions. These included various interactional and spatial strategies which Indigenous people, as a relatively powerless group, could apply in mitigation of the supervisory practices of Euro-Australians.

In the absence of Indigenous cultural information relating to land, Europeans constructed a cultural landscape largely without regard for the Aboriginal cultural landscape on which it was overlaid. It is ironic then, that what was a considered

⁶² An example of such conflict is when a decision is made (usually by the decision-making body or Minister administering the legislation) to decline protection of a site against the wishes of the site's custodians. Eg, see NT Minister's decision in relation to the damming of Junction Waterhole (Evatt 1996:305).

withholding of cultural information, devised in part to minimise the risk of potential conflict with Europeans should, over time, be reflected back in the form of the scepticisms and conflict which has characterised the reactions of whites to Aboriginal cultural claims over pastoral lands.

Incorporation of aspects of the European pastoral domain

On the other hand, Aboriginal people are acutely aware of the European cultural landscape, if for no other reason than it has been a necessity, as rationed dependents and employees, to understand its significance. Moreover, the European cultural landscape has, by the very process of the long-term experience of station life, become incorporated into the Aboriginal sphere. This is nowhere more apparent than in the reminiscences of older Aboriginal station workers such as Bobby Wititjpuru, or many of those recorded by McGrath and others. In my experience, this is where the relationship between pastoralists and Aboriginal people is at its strongest, and the lament on both sides at the passing of this era underscores the necessity of finding new bases on which a renegotiated coexistence of interests might be forged.

Another consequence of the incorporation of pastoral values into Aboriginal cultures has been an acceptance by Aboriginal people of some of its impacts on the land and its sacred aspects. Here again, it can be seen that it is Aboriginal people who have been doing the accommodating.

Impacts of pastoral development on cultural sites

One of the realities of such relations in the past was that sacred sites were frequently

affected by pastoral development. This is because many of the locations required for pastoral infrastructure, particularly natural permanent and semi-permanent water sources, are also culturally important as sites which embody and to which inhere, the creationist activities and power of ancestral beings or 'dreamings'. These have become points of articulation between different cultural landscapes - sites which powerfully symbolise the central themes of the pastoral relationship: appropriation, compliance, hidden power/meaning.

For example, most homesteads in the VRD are located on sacred sites, including Auvergne homestead, situated on the East Baines River. The river and its vicinity physically constitute the dreaming track of an important ancestral being who left, among other features of the landscape, the waterhole and a number of trees near the homestead. In seeking registration of these sites, Aboriginal custodians have had to reveal aspects of previously hidden knowledge in return for cooperation with the physical protection of the sites, but they have not sought to restrict existing pastoral occupation and usage even though the cultural amenity of the sites has been limited, in some ways severely, as a result of such occupation. In other words, in seeking a redefinition of the relationship, custodians have been moderate in their expectations of change, mindful, no doubt, of the *real politik* of their relations with pastoralists, but also influenced by the particular histories and inherent flexibilities of cultural practices relating to sites, as well as their own grounded affinity with pastoral landuses.

Accommodation and non-confrontation driven by fear of unwanted consequences

In respect of relations between pastoralists and Aboriginal people on pastoral leases, it has been Aboriginal people who have had to do most of the accommodating. And even

where statutory rights, such as those available under the *Sacred Sites Act*, have been (usually reluctantly) used by Aboriginal custodians, there is invariably respect for the right of pastoralists to continue to carry out pastoral activities unhindered. In my experience, the tentative demands of Aboriginal custodians regarding site protection measures and rights of access under the Act have been largely shaped by existing power relations and the associated fear of their actions provoking unwanted consequences.⁶³

This pattern of accommodation and non-confrontation can only be understood in terms of Aboriginal people's experience of unequal cross-cultural relations on pastoral leases and its central premise that, in order to remain on or near their traditional lands, Aboriginal groups had no choice but to eventually come into the stations under the terms of the Europeans.⁶⁴ And as objects of exploitation and control there was little choice but to develop non-confrontationist strategies for dealing with Europeans in authority. This involved, where possible, seeking to engage Europeans in a relationship based on some level of mutuality and exchange, resulting in some circumstances in the forging of strong loyalties to certain pastoralists.

Ephemeral and contingent nature of pastoral relationships

However, over time European personnel changed, so most long-term Aboriginal

⁶³ This is paralleled by Aboriginal people's experience with respect to their statutory rights to access pastoral leases for hunting and foraging. Since the 1850s, access for these purposes has been allowed by right under reservations in all Northern Territory pastoral leases, however, in reality, many Aboriginal groups and individuals have been successfully discouraged from access by locked gates, inappropriate pre-conditions and unfriendly or threatening behaviour by pastoralists.

⁶⁴ Questions regarding individual motivations, whether forced or voluntary, whether out of desire for European goods or necessity caused by decimated food sources, need to be considered against the fact of the inexorable expansion of pastoral leases over the entire productive landscape and the regulatory and coercive infrastructure which developed alongside.

employees on stations worked with many different managers, constantly having to establish new relationships with them. For the Aboriginal community, each new European represented the potential for relations to drastically change for either the better or worse. With a much diminished level of contact with pastoralists since the changes of the 1960s and 70s, opportunities to establish cooperative relations have correspondingly reduced. On some stations there has been virtually no contact over the past couple of decades.

At the same time, as noted above, there has been a proliferation of ephemeral relationships with whites in positions of power and influence over Aboriginal lives (such as police, welfare officers, and employees of public sector and Aboriginal organisations etc). The short-term and narrow focus of such relationships, I believe, has helped entrench a shallow and fatalistic mode of communication characterised by an extensive Aboriginal 'hidden transcript'. It has also multiplied opportunities to covertly use relations with whites to extend personal interests and through which to carry out Aboriginal politics – a feature of cross-cultural relations discernable from early in the period of contact (see, for example, Merlan 1978, McGrath 1987, Rose 1991). Pastoralists see such processes as evidence of a corruption of the traditional sphere of Aboriginal communities.

8.8. Conclusion

Recalling Reg Durack's 'unwritten contract', it can be seen that the many accommodations made by Aboriginal people and the physical impacts of the pastoral industry on Aboriginal cultural landscapes, are significant omissions from its terms. Where whites did acknowledge impacts, however, these were viewed as a natural consequence of encountering and making way for a superior culture into which

Aboriginal people would eventually become assimilated. Implicated here is an inability to acknowledge the effects of power on pastoralists' relations with Aboriginal people. Pastoralists have failed to see that such relations have instigated an uneven, constricted communication, particularly regarding the cultural significance of the land. And the fact that such concerns have been raised with others - outsiders, no less - only fuels their sense of the untoward. Stripped bare, the focus of pastoralists' concerns is to do with issues of the continuity of cultural knowledge and practice, and their belief that younger generations or outsiders may refuse to cooperate with, even sabotage, pastoral enterprises.⁶⁵ Such fear, essentially of a loss of control, has grown since the ending of close contact between pastoralists and Aboriginal people. Younger, unfamiliar generations are, to them, outsiders who seemingly evoke dormant fears of the 'treachery' and conflict which preceded the subjugation of Aboriginal people within the pastoral industry. The frontier thus remains, besieged by remade forces of Aboriginal resistance.

In contrast, the importance of intercultural contact is highlighted by the example of Auvergne, where communication and cooperation has continued between managers and Aboriginal custodians of the area since the relocation of the Aboriginal community away from the homestead in 1972. This has included mutual cooperation in providing access to the station for the local Aboriginal community and in following the wishes of senior custodians regarding the restriction of access by outsiders to areas of cultural significance. Thus, even though the present manager was largely ignorant of the extent and cultural significance of Aboriginal sites on Auvergne, he has cooperated with an extensive program of site registrations, largely because of his personal trust of the senior custodians.

⁶⁵ Interview with Alan Andrews, 1995.

The social distance and inequalities which Aboriginal people continue to face in the VRD are aspects of a power dynamic which, while remaining debilitating for the relatively powerless, has become increasingly invisible to the powerful. Here, intercultural relations are one facet of differing socio-cultural practices which structure the ways in which landscapes are used, experienced and valued. The transition from a station-based coexistence, albeit an unequal one, to the current situation of legislatively-mediated cultural rights has accentuated pre-existing flaws in intercultural relations as the two parties have drifted further apart. Into this breach, the *Sacred Sites Act* has stepped, providing a mechanism for (re)establishing communication and for brokering an improved understanding and acknowledgment of each other's position. In the case of Auvergne the tentative efforts of Aboriginal custodians to maintain and further develop a negotiated coexistence, in part through the use of the *Sacred Sites Act*, have been reciprocated by the station management. A crucial aspect of the Act here, is its ability to empower Aboriginal custodians (that is, give them confidence in the rights it affords them). While Auvergne remains an atypical example, it is one which points to the way towards a re-shaped coexistence on pastoral lands.

Plates 20 - 25



Plate 20: An outstation located amongst sacred trees.

Plate 21: This set of cattle yards was erected amongst sacred trees without any consultation with Aboriginal custodians. A number of sacred trees were chopped down during its construction.

Plate 22: An Aboriginal outstation camp established on a station without the white pastoralist's permission. Note that cattle salt licks have been placed at the site by the white manager to attract cattle and hinder the residents. The tree is spiritually important.

Plate 23: Custodians showing the remains of an old timber cattle yard constructed on a sacred site amongst sacred trees.

Plate 24: This sign on an outstation gate shows the principal Dreamings associated with the area.

Plate 25: Sacred tree at a station homestead. The station owners were not told about this sacred tree until it was registered in 1995.

PART 5:

THE HERITAGE PROTECTION ERA

CHAPTER 9: PROTECTING SACRED SITES: INDIGENOUS VS LEGISLATIVE APPROACHES

*In a sense it is legal people who have the final say in deciding what ought to be done: **not** Aborigines, as we might ideally expect. Aborigines have more people standing between them and the sources of power, more obstacles to overcome, more persons to persuade and more likelihood of being misunderstood. Structurally, government has developed a protective crust around it. Although it has always had that, this development provides it with greater legal force and, consequently, makes it more impersonal.”¹*

Aboriginals, just like their fellow members of the community, if they wish to avail themselves of legal remedies, must do so on the law’s terms.²

9.1. Introduction

Governments have historically relied on legislative approaches to Indigenous affairs policy, particularly with respect to the administration and codification of Indigenous customary rights to land. In a previous chapter attention was drawn to the degree to which Aboriginal cultural attachment to land has been regulated through heritage processes and special heritage legislation, despite many conflicts between the heritage paradigm and Aboriginal cultural perspectives. This chapter seeks to examine in more detail issues surrounding the legislative regulation of Aboriginal cultural heritage, and to contrast legislative approaches with the strategies and approaches of Aboriginal custodians themselves.

As with the issue of the place of Indigenous ‘heritage’ within the Western heritage

¹ Berndt, R.M., 1981, ‘A Long View: Some Personal Comments on Land Rights’, in AIAS Newsletter, No. 16, Sept. 1981: 15.

² Mr Justice Burchett in the full-bench appeal from the Hindmarsh Island Bridge Case, December 1995 – quoted in Hancock 1996:91).

paradigm, we find that Indigenous approaches to protecting their 'heritage' conflicts in fundamental ways with legislative approaches. A major area of conflict concerns the implications of Aboriginal custodians' reliance on non-confrontationist strategies in intercultural relations. These strategies will be examined later in the chapter. Another area of conflict relates to the structural assumptions underlying legislative models and processes. In particular, concerns arise firstly, with regard to the effects of the legislative fragmentation and codification of Indigenous cultural rights, and secondly, with regard to the deficiencies of statutory processes in dealing with the day-to-day difficulties and prejudices which Aboriginal communities face in trying to coexist with white Australia.

Arguably, the most significant impacts derive from problematic race relations, pointing to the need to expand the focus of Indigenous affairs policy beyond merely legislative solutions. Initiatives such as voluntary negotiated agreements aimed at reconciling Euro-Australian and Indigenous rights and interests, offer some hope for alternative ways of resolving current conflicts. However, to be effective such agreements need to include appropriate provisions for effectively protecting Indigenous heritage sites and associated cultural practices at the scale of individual landholdings. In this respect properly resourced statutory regimes will remain a critical underpinning to Indigenous affairs policy.

However, just as 'heritage-isation' has involved the shoe-horning of aspects of Indigenous cultures into the Eurocentric heritage paradigm, rather than developing culturally-appropriate policy, so a narrowly legislative approach to Indigenous affairs issues engages institutions and processes which are alien and remote from Aboriginal experience. Such an approach entails questionable assumptions: that there is equal access to the Euro-Australian legal system; and that such processes are appropriate or can be made appropriate for Aboriginal systems of cultural and social organisation.

Finally, legislative approaches do little to challenge, and may in fact reinforce, the deep social structures which create and maintain discriminatory practices against Indigenous communities.

These issues have been complicated by the finding of common law Indigenous rights to land in *Mabo* and *Wik* - an effect of which has been to expose a widespread lack of critical understanding concerning the relationship between Indigenous customary law and Euro-Australian law, and the essential differences between common law and statutory rights. Understanding these differences is essential to achieving effective protection for the rights which Indigenous people themselves seek to have recognised by Euro-Australians.

9.2. Legislative fragmentation of cultural rights

A central problem is that legislative approaches result in the fragmentation of Indigenous cultural interests, artificially shaping non-Indigenous understanding of the salient features of Indigenous cultures according to Euro-Australian legal perspectives, and making it more difficult for outcomes to appropriately recognise the totality and interrelatedness of Indigenous cultural practices relating to land and sites.

Usufructuary vs 'heritage' protection rights

The most obvious aspect of the legislative fragmentation of Indigenous cultural rights is the clear separation between legislative provisions dealing with general land use and occupancy (hunting and fishing rights, etc), and those relating to cultural heritage protection. This separation can be traced to different historical origins. The former

derives from concern in the mid-19th century over the expulsion of Aboriginal people from their traditional lands as settlers took up leases from the Crown (Reynolds 1993). This resulted in a reservation being applied to pastoral leases allowing traditional Aboriginal occupation and use. Successive repeals and amendments of legislation over the years have resulted in a considerable weakening of these rights.³

On the other hand, Indigenous site protection legislation has its origin in the emergence of interest in the identification and preservation of a national heritage.⁴ With respect to Indigenous cultures such interest focused on archaeological concerns, resulting initially in so-called 'relics' based legislation being passed in the mid-1950s. The first relics based legislation in the Northern Territory was the *Native and Historical Objects and Areas Preservation Ordinance (NT) 1955-61*, replacing unused provisions in the *Police and Police Offences Ordinance 1954* which made it an offence to 'willfully or negligently deface, damage and cover, expose, excavate or otherwise interfere with a place which is, or has been at any time, used by Australian Aboriginal natives as a ceremonial, burial or initiation ground'. However, restrictions on the protection of areas under the new Ordinance to only unalienated Crown Land and the lack of both administrative mechanisms and any requirement to consult with Aborigines regarding sites 'ensured that the legislation had little effect upon the regular destruction of places faced with European encroachment' (Ellis 1994a:22). A review of the 1955-61 Ordinance in 1965 was contributed to by T.E.H. Strehlow, whose submission was included as an appendix to the review's final report. Strehlow stressed the lack of recognition of the 'religious rights' of Aboriginal people to sacred sites and sacred

³ For instance, the right to erect shelters has been removed entirely and the remaining rights excluded within two kilometres of a homestead. In respect of the latter it should be remembered that most homesteads are generally located on important permanent waters, many of which are also sacred sites. See Chapter 8 for further discussion of the weakening of the pastoral reservation.

⁴ In Chapter 5 it was noted how the 'prehistory' of Australia's Indigenous cultures has been appropriated to the narrativisation of an Australian nationhood.

objects, and recommended that in re-drafting the Ordinance, 'Aboriginal co-operation should be tactfully sought, and local rules sympathetically ascertained and respected' (Strehlow 1965). Strehlow's submission canvassed the protection of sites, including recommending: that access to sites should only be by invitation from custodians ('appropriate totemic clansmen') and that similarly, research should only occur at the invitation of custodians; recognition of Aboriginal people's right to maintain secrecy; and that sacred objects should not be collected without their owners' permission. Later developments, particularly the Gove land rights case⁵ of the early 1970s, focused attention further on continuing Aboriginal spiritual attachment to the land, including to sites hitherto the subject of relics legislation. In 1972 a national conference on Aboriginal heritage 'preservation' was held in Canberra. One of the papers presented pointed to the need for heritage legislation to protect natural landscape features which were of Indigenous religious significance (Ellis 1975). Subsequently, the *Aboriginal Land Rights Act (NT) 1976* was enacted and conferred on the Northern Territory Legislative Assembly the power to enact complementary legislation 'providing for the protection of, and prevention of desecration of sacred sites in the Northern Territory'.⁶ This resulted in the *Aboriginal Sacred Sites Act, 1978* (see below). Interestingly, the legislative protection of sacred sites in the *Sacred Sites Act* was extended to all areas of the Northern Territory, including freehold land, while traditional hunting and foraging rights have remained restricted to the gradually shrinking pastoral estate and to national parks and reserves.

The irony here is that activities which include hunting, fishing, foraging and the occupation of sites are a fundamental component of spiritual attachment to the land, necessary to produce and maintain what is characterised as 'cultural heritage' under

⁵ *Milirrpum v Nabalco*, (1970) 17 F.L.R.

⁶ s 73(1) of the *Land Rights Act*.

Euro-Australian law (see for example, Povinelli 1993). This is not a common understanding amongst non-Indigenous Australians and underscores a central problem with legislative fragmentation: that it resists the formation of holistic understandings by pigeon-holing issues and prescribing processes of 'rational administration' (Sullivan 1996) through which such issues are to be addressed.

Native title has, if anything, complicated this picture. On the one hand it has helped to reinforce legislative fragmentation through the subsequent enactment of yet further pieces of legislation which will overlap to some extent with existing legislation, and through its effect of recognising in Euro-Australian law only those *residual* common law rights which have evaded extinguishment by actions of the Crown and legislatures. On the other hand, the concept of native title constitutes a much more holistic, though no less Eurocentric rendering of Indigenous cultural attachment to land. Indeed, the recent High Court decision in *Yanner v Eaton* suggests that native title is a coherent, robust form of property right and that merely regulating its surface manifestations, such as usufructuary rights, through legislative regulation, 'will be as ineffective to destroy that connection in law as it is in reality'.⁷ This follows the Miriuwung-Gajerrong native title case in which the court recognised substantial native title rights, including rights to possess and occupy the land, control access to land, the right to trade in resources on the land, and the right to control the use and enjoyment of the land and its resources.⁸ This is certainly in contrast to the more limited recognition of cultural practices relating to sacred sites under Indigenous heritage protection regimes such as the *Sacred Sites Act*.

⁷ Department of the Parliamentary Library Information and Research Services Research Note 1998-99 (<http://www.aph.gov.au/library/pubs/rn/1999-2000/2000m11.htm>). This interpretation is contrasted by an opposite view which sees native title as a 'bundle of rights' which is susceptible to incremental destruction.

⁸ *Ben Ward & Ors v State of Western Australia & Ors* [1998] 1478 FCA (24 November 1998). The Miriuwung-Gajerrong findings are currently subject to an appeal to the full-bench of the Federal Court.

9.3. Indigenous cultural heritage protection and the ‘sacred site’

At this point it is useful to look in more detail at the primary object of Aboriginal cultural heritage protection - the ‘sacred site’ - in an effort to help explain some of the dilemmas which sacred site issues have come to present, particularly in remote areas such as the VRD.

Variability of academic, legal and common usage

From its first appearance in anthropological writing as early as 1947, the term ‘sacred site’ gained prominence in anthropological literature by the mid-1960s, and subsequently acquired legal and common usage from the early 1970s (Maddock 1991:214). By 1976 the term was defined in Commonwealth legislation, the *Aboriginal Land Rights (Northern Territory) Act 1976*. The Act provided (amongst other things) for the blanket protection of all sacred sites in the Northern Territory against desecration.⁹

In this progression from anthropological research to legal and common usage, a confusing range of meanings has attached to the term, helping to create an air of uncertainty which has fuelled suspicion and scepticism about sacred sites amongst significant sectors of the non-Indigenous community of the Northern Territory. In particular, legislative codification of the term, resulting from the development of policies for the protection of Indigenous cultural heritage in the wake of similar policy advances with regard to non-Indigenous heritage, has provided a catalyst around which

⁹ S69(1) and s73(1) of the *Land Rights Act* in conjunction establish blanket protection, however desecration is not defined in the Act and would have to be established by the courts in each case (see also below at 9.6).

community conflict regarding 'sacred sites' issues has developed. Within the general community, debate about Indigenous heritage protection often focuses on the authenticity and legitimacy of 'sacred site claims'. Legislative codification has helped to reinforce this focus on the sacred-site-as-problematic in a number of ways. Firstly, in defining a single process and set of criteria for identifying the broad range of cultural sites which such legislation is intended to cover, legislators have adopted a single definitional term - 'sacred site'. A problem here is that the public expectation of the term is that it refers to something which is unique and revered in the landscape. When subsequently confronted by a range of different and often physically unremarkable sites, including trees, all of which appear to attract equal protection under 'sacred sites' legislation, some whites have become suspicious of those sites which do not accord with their expectations of 'sacredness'.¹⁰ Secondly, such views are reinforced by the extraordinary exposure which conflict over sacred sites receives at both the local and national levels, in comparison to the relative disinterest shown towards the far more common experiences of unproblematic outcomes in reconciling non-Indigenous interests in land with Indigenous heritage protection.¹¹

An advantage of academic over legislative and public contexts is that the former has developed or utilises a number of terms to distinguish sites of differing kinds of cultural

¹⁰ Conversely, whites often assume that rock art sites must be sacred sites and consequently question the level of cultural knowledge and concern of Aboriginal custodians when such sites appear to be unknown or not visited by them (see for example, the comments of Alan Andrews and Lloyd Fogarty in the preceding chapters). Some whites also fear that that rock art sites on their land could be 'made into' sacred sites by Aboriginal people to advance claims on their land. One incident which occurred in the town of Katherine involved a local landowner destroying paintings in rock shelters on his land because of such fears (personal communication, Paul Maclean, 1992). A local archaeologist who had photographed the shelters before the destruction was able to revisit and re-photograph the sites after the damage.

¹¹ For example, the 1996/97 Annual Report of the AAPA notes that out of 684 Authority Certificates issued over the previous three years, only one (or 0.15%) resulted in a request for a Ministerial review by an aggrieved applicant (p21). Moreover, out of 270 Authority Certificate applications received in the 1995/96 financial year, only 3% were refused (p13). In comparison, the Coronation Hill and Junction Waterhole sacred site 'controversies' attracted an enormous amount of adverse media and Government attention, most of it related to authenticity concerns (see for example, Ellis 1994a).

significance (eg, 'occupation site', 'camping place', 'named site', 'cultural site', 'significant site', 'story place', 'ceremony ground', 'burial site', 'conception site' 'totemic site' etc), and therefore, as a term in anthropological literature, 'sacred site' is reserved for places which are of religious or spiritual significance directly related to Dreamings associated with the land. However, the *Land Rights Act* and the *Sacred Sites Act*, for practical reasons, include all types of sites, such as the ones noted above, under a single, broad definition of sacred site:

a site which is sacred to Aboriginals or is otherwise of significance according to Aboriginal tradition, and includes any land that, under a law of the Northern Territory, is declared to be sacred to Aboriginals or of significance according to tradition.

What is often not generally understood is that, in addition to the administrative practicality of a single definition, there are other very good reasons for having a definition which applies to a wide variety of places which are *of significance under Aboriginal tradition*. Foremost amongst such reasons is that, as shown in Chapter 4, Aboriginal understanding is that Dreamings and the spirits of dead ancestors maintain active communication with the land and with the Aboriginal people who continue to care for it. For example, in Timber Creek, one of the first sites to be requested for registration as a sacred site was the abandoned old pensioners' camp on the banks of the creek opposite the township. The powerful amalgam of emotional and spiritual attachment¹² which local Aboriginal people have for this patch of bare ground with its few trees, scraps of old tin and scattered stones once used to construct the tin humpies in which people lived, meaningfully fits the definition of 'sacred site' in the *Sacred Sites Act*. Yet most whites would have difficulty understanding both the basis of

¹² See Chapter 4 (4.5) for a brief account of the cultural significance of this site. The example shows how people's presence and actions in the landscape (sitting down, singing, being born or buried, etc.) can create an enduring meaning and significance of place.

such Aboriginal sentiment and the reasoning as to why such an area could qualify as a 'sacred site'.

A dilemma this confusion over meanings has created has been articulated by Ron Brunton, in criticising the registration of Coronation Hill as a sacred site on the basis that its significance was a recent invention or elaboration:

there can be little doubt that the vast majority of Australians believe that traditional Aboriginal religious beliefs and practices are of great antiquity, and that this belief has provided much of the legitimacy for legislation protecting sacred sites ... Australians' willingness to protect sites associated with beliefs only 10 years old is likely to be considerably less than their willingness to protect sites 10,000 years old - particularly if such protection could harm one of the nation's most important industries (Brunton 1991:2).

But this is precisely heritage-isation in action. Recalling the discussion in earlier chapters regarding Euro-Australian representations of Indigenous cultures, we can see that many whites regard sacred sites as heritage in the narrow sense of something from a distant 'traditional' past. However, this applies a heritage standard of comparatively recent Western societies, that the oldest or earliest examples of cultural objects are inherently of more heritage value, but fails to acknowledge that the processes of assigning such values are ongoing and that the past is constantly reshaped according to the values and experience of the present. In contrast, Indigenous cultural change is regarded as diminishing the inherent value of their heritage. This view establishes a contrast between an authentic traditional past and a culturally impoverished present, concluding that it is not valid to define and protect sites according to the contemporary knowledge, values and concerns of custodians.¹³

¹³ In fact, current standards for Indigenous heritage protection recognise that the significance of sites must be defined according to the knowledge and customs of Aboriginal custodians (see

It is an example of the constant distancing of contemporary Indigenous communities from their traditional pasts, and constitutes a form of neo-colonialist dispossession.

The central problem is in trying to define and regulate Indigenous cultural phenomena from Western perspectives. Both legal and common usage can be seen to engage conceptual models which bear little resemblance to the corresponding cultural entities they are attempting to represent.¹⁴ Conceptualisation of the 'sacred site' (and other Western constructs such as 'heritage' and 'native title'), demonstrates the ability of the dominant Euro-Australian culture to exert control over significant aspects of Indigenous cultures through its control of language. A pertinent example is the increasing use of 'sacred site' to describe places important to non-Aboriginal people (Maddock 1991). While much of this is benign in intent,¹⁵ the term has also been used in direct challenge to the special rights afforded to Aboriginal custodians under Indigenous heritage protection legislation.¹⁶ In a recent example, the return of a sacred a boulder to its Aboriginal custodians following its removal 45 years ago to mark the grave of Royal Flying Doctor Service founder, the Reverend John Flynn, outraged Victorian State RSL¹⁷ President Bruce Ruxton, who commented: 'It's [Flynn's grave] a sacred site and they should be damned for touching it' ('Elders Reclaim Stolen Boulder' *The Australian*, 3 Sept 1999).

Evatt 1996, particularly Chapter 8). The *Sacred Sites Act* includes such a standard (see below). In contrast, recent criticism of heritage and native title claims processes has centred on the difficulties of verifying the religious and other cultural beliefs of Indigenous oral cultures (Johns 1998).

¹⁴ Western conceptualisations, in failing to properly correspond to Indigenous structures, create definitional problems. For instance, even with respect to the use of the term 'site', it has been regarded as necessary to substitute the word 'area' in order to better indicate the extent of some 'sites' and the need to consider 'buffer zones' in certain instances (Evatt 1996: 78). The *Sacred Sites Act* also expressly includes 'the vicinity' of sites in the purview of its protective powers, recognising that 'boundaries' are context-dependent entities.

¹⁵ That is, as a metaphoric innovation of ordinary language, in this case Standard English.

¹⁶ For example, in the town of Katherine an outspoken white critic of the Jawoyn land claim (which included the Katherine Gorge) and founder of an opposition group known as 'Rights for Whites', placed a prominent sign at the entrance to his land which read: 'Woods' Sacred Site'.

¹⁷ Returned Servicemen's League.

But the hegemonic use of language may also have unforeseen effects which can act in other ways to reinforce Euro-Australian misunderstanding of Indigenous perspectives. One such effect is the confusion which has developed amongst members of Indigenous communities regarding the term 'sacred site' - a late arrival in the vocabulary of contact relations in the VRD. In these circumstances it is not surprising that, in its adoption into Aboriginal-English, some Aboriginal people have misinterpreted or juxtaposed 'sacred' and 'secret'. As well as sounding similar (particularly as pronounced by Aboriginal speakers), 'secret' is a much older Aboriginal-English word used in relation to gender or ritually-restricted aspects of Aboriginal culture (eg 'secret business'), which includes 'inside' or 'dear' (ie, gender- and age-restricted) information about sacred sites. Secrecy is a fundamental aspect of the socio-cultural value of such sites. However, not all sacred sites have 'inside' or restricted information relating to them, or attract the kinds of proscriptions on access and behavior which 'secret' sites usually do. Moreover, it has been relatively common for anthropologists and others to use 'secret-sacred' as a compound term in referring to such sites as well as to any associated restricted cultural information.¹⁸

A problem is that Euro-Australians' use of the term sacred site in reference to 'non-secret' sites of various kinds which otherwise legitimately conform to the legislative definition, can lead older custodians to think that a misunderstanding has occurred, and to seek to correct the situation. I have frequently observed older custodians attempt to contrast the lesser significance of 'non-secret' sites by saying they are 'nothing' or that there is 'nothing there' - not meaning that the sites are not important in their cultural traditions, but rather that they are 'open' (non-restricted) and/or are not

¹⁸ On the other hand, some whites have incorrectly assumed that all cultural information about sacred sites is restricted. For example, Berndt criticised the Seaman Aboriginal Land Enquiry report for such an assumption (Berndt 1984:500).

places where a Dreaming continues to reside (ie, places where a Dreaming is said to have 'stopped' or gone into the ground and remained). While such misunderstandings can be overcome through discussion, in some instances serious miscommunication in intercultural exchanges results.

Controversy over sacred sites

It is easy to see how scepticism and confusion arising from differing preconceptions of sacred sites has resulted in controversy in many instances. The fact of apparent contradiction in the statements of Aboriginal people about the significance of areas is often leapt upon by non-Indigenous protagonists as being evidence of attempted fabrication. Indeed, it is a common belief of many whites in the Northern Territory that naive or cunning blacks, usually with the support or connivance of unscrupulous or naive 'white advisors', invent or exaggerate the significance of sacred sites for ulterior purposes.¹⁹ This is a common feature of sacred site controversies such as Coronation Hill and Hindmarsh Island, which has had the effect of polarising opinion within the respective Indigenous communities and of undermining non-Indigenous acceptance of the validity of traditional concerns about such sites.

At a local level, controversies over sacred sites can have lasting detrimental effect on intercultural relations, including those with landowners and land managers, be they private or government. For instance, in Keep River National Park conflict arose over

¹⁹ The sensitivity of Aboriginal custodians to such accusations and their fear of adverse reaction can be intentionally or unintentionally exploited where contrary claims made by others about a site are relayed back to custodians. Public controversy and threats of Government intervention can also add to a climate in which Aboriginal custodians may perceive it in their best interests to deny or repudiate claims made about a site. Such situations can better be described as a form of 'coercive exchange' (Goffman 1969). See also Chapters 6 and 11.

the siting of a public camping ground within the precinct of a complex of sacred sites.²⁰ The Conservation Commission had sited the camping ground based on the statements of an elderly senior custodian employed as an advisor, and on the results of their own consultations with other custodians of the area. However, during consultations carried out by the AAPA, these same custodians contradicted the Commission's findings and expressed opposition to the siting of the campground, based on the cultural significance of the area. The Commission, in turn, believed that these concerns were at the instigation of a European man who was married to one of the traditional owners of the area, and with whom they were having difficulties over the negotiation of community living areas ('excisions') and other issues in the park. They were also suspicious of the role of the AAPA in supporting custodians' concerns about the campground. While the issue requires a more complex analysis than is possible here, it is worth noting that the Commission's Aboriginal advisor articulated a conception of sacred sites in relation to development within the park which identified only certain 'secret-sacred' sites as warranting exclusion from development. His close relationship with Commission personnel and role as a broker in consultations with other custodians affected the ability of the Commission to adopt a neutral role in resolving the conflict which, subsequently, has had lasting effects on relations between the Commission, custodians and the AAPA in the nearby Gregory National Park (see Case Study 3 in Chapter 10).

9.4. The Northern Territory Sacred Sites Act, 1989

At this point it is necessary to consider the detail of the *Sacred Sites Act* itself, and in

²⁰ At the time I was one of the AAPA field officers in carrying out consultations with custodians over the campground and so have first-hand knowledge of the issues discussed here.

particular the ways in which the various technical and conceptual aspects of the Act relate to the rights and interests of Aboriginal custodians. Revealed in the Act are the hallmarks of 'heritage-isation', as discussed in Chapter 5, as well as indications of the structural limits of the formal relationship between Aboriginal people and the State.

The *Northern Territory Sacred Sites Act, 1989*, came into force on the 15th August 1989, replacing but substantially based on the earlier *Aboriginal Sacred Sites Act 1978*.²¹ The Act was established under a head of power contained in the Commonwealth's *Aboriginal Land Rights (Northern Territory) Act 1976*, and has been described as a 'best practice' model for Indigenous heritage protection legislation in the national context.²²

Features of the Act

The Act establishes a statutory authority, the Aboriginal Areas Protection Authority (AAPA) which consists of twelve members appointed by the Administrator of the Northern Territory. Ten of the members (five men and five women) are Aboriginal custodians nominated by the Land Councils, with the other two nominated by the Government. The Chairman and Deputy Chairman must be Aboriginal members of opposite sexes. Thus the Authority Board is both Aboriginal-controlled and gender equal. However, the CEO of the Authority is appointed by the Minister under a negotiated contract.

²¹ The Act was passed after a number of failed attempts to weaken the earlier *Aboriginal Sacred Sites Act 1978* in response to non-Indigenous criticisms of the workings of the Act (Ellis 1994a).

²² Evatt 1996; 11th Report of the Parliamentary Joint Committee on Native Title (Chapter 8), but see also submissions by the Central Land Council to the Joint Committee (summarised in Chapter 8 of the 11th Report) and below.

The Authority performs regulatory, advisory and administrative functions as set out in the Act. The main functions of the Authority are summarised in its more recent Annual Reports as:

- *Receive requests for site protection from Aboriginal custodians, document information provided by custodians in support of their requests, execute protection measures for sites and maintain confidential records of traditional information.*
- *Establish and maintain a...Register of Sacred Sites and other such registers and records as required by or under this Act.*
- *Carry out surveys to determine the constraints, if any, imposed by the existence of sacred sites on work on land anywhere in the Northern Territory...*
- *Sit as a review Board to report on matters arising from an appeal against the Authority...*
- *Make available for public inspection the Register and records of all agreements, certificates and refusals, except to the extent that such availability would disclose sensitive commercial information or matters required by Aboriginal tradition to be kept secret.*
- *Enforce the Northern Territory Aboriginal Sacred Sites Act 1989.*

An important feature of the *Sacred Sites Act* and the AAPA is that a level of independence from intervention by the Minister is maintained in that the Minister 'is specifically excluded from directing the Authority on matters relating to the registration of sacred sites, the issuing of approvals under the Act, the conduct of prosecutions or matters relating to information of a secret or confidential nature according to Aboriginal tradition in the Authority's records' (AAPA 1994:7). However, under the Act the Minister retains the power to override the Authority's decisions on 'issues of competing land use affecting Aboriginal cultural sites' (AAPA 1994:7. See also below for further discussion).

The Act provides blanket protection (that is, for all sites whether recorded or not, on all land in the Northern Territory) for sacred sites defined under the Act as ‘sacred to Aboriginals or otherwise of significance according to Aboriginal tradition’²³. Such protection has a number of components.

The Act establishes offence provisions for illegal entry to (s33), carrying out of works on (s34), or desecration of (s35), a sacred site; contravention of the conditions of an Authority Certificate or Minister’s Certificate (s37); the inappropriate disclosure of restricted cultural information (s38); and obstructing third party access to sites (s47(4) - see below).²⁴ Penalties range from \$5,000 to \$20,000 or from one to two years prison for individuals, and \$20,000 to \$40,000 for a body corporate.

Under the Act, Aboriginal custodians have a number of statutory rights with respect to all sacred sites, regardless of the underlying land tenure. These include the right of access to sacred sites in accordance with Aboriginal tradition (s46), the right to authorise other people to enter and remain on sacred sites (s43), the power to authorise persons to cross any land in order to access a sacred site (s47), and to refuse permission for, or determine the nature and extent of, works on or in the vicinity of a sacred site (s.20). As the AAPA itself notes, ‘This bundle of rights amounts to a covetable interest and the existence of registered sacred sites are recorded on the Northern Territory Land Title Register’ (AAPA 1994:11).

²³ This definition is taken from the Commonwealth’s *Aboriginal Land Rights Act (NT) 1976*, and, together with s69(1) and s73(1) of that Act, provided a constraint on the Northern Territory Government to ensure that blanket protection was included in the *Sacred Sites Act* (in that Commonwealth legislation overrides State and Territory legislation to the degree of any inconsistency between the two).

²⁴ Third party access here refers to access permitted for a purpose related to the Act or to the *Aboriginal and Torres Strait Islander Heritage Protection Act, 1984* or *Land Rights Act*. Significantly, there is no offence provision for obstructing custodians’ right of access to sites as provided under s46.

Site registration and site avoidance procedures

However, although all sites are theoretically protected, the fact that not all sites are recorded (that is, known to the AAPA) means that inappropriate access to or use of sites may occur in the absence of efforts to ascertain whether there are any sacred sites in the vicinity of the land in question. The Act does not make it mandatory to carry out such surveys, and in fact provides a defence against prosecution for illegal entry, works or desecration on non-Aboriginal land 'if it is proved that the defendant had no reasonable grounds for suspecting that the sacred site was a sacred site' (s36(1)).²⁵ Such a situation not only exposes custodians to the risk of their sites being needlessly damaged, but also exposes other land users to the risk, if not of prosecution, then at least that their proposed works or use may be significantly delayed or even abandoned if custodians subsequently seek protection of affected sites. In consideration of this, the Act provides processes for the registration of sites (s.27 to 29) and for the issuing of works approvals (Part III), termed Authority Certificates.

Registration of sites (s27 to s29) presents custodians with a trade-off of benefits and disadvantages. As the AAPA observes, 'the central principle underpinning the process of registration is that the process may only be initiated by Aboriginal custodians themselves' (AAPA Annual Report 1996-97:42). Upon an application the AAPA must consult with custodians and record certain information about the site:

- *the traditional basis of custodianship;*
- *the names and addresses of custodians;*
- *the traditional story of the site;*
- *the location and extent of the site;*
- *the traditional restrictions applying to the site;*

²⁵ On Aboriginal Land this defence is not available. See below for further comment relating s36.

- *the physical features of the site;*
- *the period of registration;*
- *the restrictions applying to traditional information about the site (AAPA:42).*

The AAPA must advise landowners of the proposed registration (including a map of the proposed boundaries) and upon registration must enter the information in the Register of Sacred Sites, which is publicly available. Information required under Aboriginal tradition to be kept secret or confidential is not included on the Register. In order to encourage custodians to place sites on the Register such secret or confidential information remains under the control of custodians by means of:

- *ensuring that the Authority Board, charged with making decisions relating to such matters, is comprised of Aboriginal custodians nominated by the Land Councils;*
- *establishing significant penalties (\$10,000 fine or one year's imprisonment) for inappropriate disclosure of such information gathered in the course of the Authority's work;*
- *ensuring that the Authority retains ownership of all materials gathered in the course of its inquiries (AAPA 1994:6).*

Nevertheless, the disclosure of information for the Register may be contrary to practices under Aboriginal law as well as the strategies of non-disclosure which have been detailed earlier in the chapter, and represents a risk of abuse of trust. In this regard Aboriginal control of the Authority Board and all cultural materials held by the Authority have been crucial to securing the trust of custodians in cooperating with the registration process. One only has to imagine the vast body of information of a confidential nature held by the Authority to recognise the importance of an independent Aboriginal-controlled body to safeguard such information. Additionally for custodians, registration poses a risk that the public availability of certain information such as the location of sites, may result in unwanted damage or access by those who might seek

to purposefully damage sites.²⁶

A further incentive provided to custodians to register sites is that a higher level of protection is given to registered sites, in that the 'reasonable ignorance' defence against prosecution is not available. This is because information on the location of registered sites is publicly available.²⁷ In addition, registered sites 'must be considered by all persons acting judicially as prima facie sites', meaning that custodians do not have to prove the site is a sacred site in any court action.²⁸

However, although the Authority states that 'demand to have sites registered has been consistently strong' (AAPA 1995/96:33), it is, for both cultural and logistical reasons, an impossibility that all sacred sites will eventually become registered.²⁹

On the other side of the equation, the *Sacred Sites Act* provides for a process for the issuing of works approvals, termed Authority Certificates, which have the effect of

²⁶ The case of the sacred boulder stolen from a registered, sign-posted sacred site, which introduced this thesis is one such an example.

²⁷ Registered sites are placed on the Land Titles Register (AAPA 1994).

²⁸ Having to prove that a site is a sacred site before a court is an onerous task for custodians, not only requiring that information be revealed in court situations which are generally culturally inappropriate contexts for such disclosure and which do not necessarily protect information from further inappropriate disclosure. As a consequence, custodians are sometimes not prepared to proceed with prosecutions. In contrast, in land claims in the Northern Territory procedures for hearings and the provision of traditional evidence have been specifically developed to deal with such concerns.

²⁹ This has been frequently suggested by landowners in the Northern Territory, a recent example being the Northern Territory Cattlemen's Association in its submission and evidence to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund inquiry into the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Submission HA28:2 and Hansard NT1022). In response to the suggestion, the Central Land Council in its submission to the same inquiry noted:

The registration of all sites is not feasible in terms of available resources. Identifying all sites would simply take too long, and be too expensive, especially considering that the identification of many of them would be unnecessary. As the Northern Territory Government representative Mr Jones told the Committee (Hansard pages 985-986): "The entire landscape of the Northern Territory is of some significance in Aboriginal tradition. So to embark on a wholesale investigation and registration of every single site in the Northern Territory is a physical, financial and possibly intellectual impossibility" (Central Land Council 1998:4).

giving legal indemnity against prosecution under the Act to the holder of a Certificate for use or works carried out in accordance with the conditions of the Certificate.³⁰ This process is, consequently, of considerable importance to Aboriginal custodians in that the issuing of such a Certificate effectively yields their rights under the Act to subsequently prevent or control the use or works to which the Authority Certificate relates.³¹

Consequently, the AAPA is obliged to consult with custodians of affected areas and may only issue a Certificate

...when it is satisfied that the work or use of the land can proceed without there being a substantial risk of damage to a sacred site on or in the vicinity of the land or when an agreement has been reached between the Aboriginal custodians of any affected sites and the applicant for the Certificate, setting out conditions on which work may be carried out or use made (s.22) (AAPA 1994:9).

In some instances such consultation may be carried out by AAPA staff or consultants and a Certificate issued or rejected without the direct involvement of the applicant in the process. The AAPA has delegated its CEO to issue a Certificate 'upon receipt of written advice from the Authority Officers attending the meeting, of the outcome of the consultation' (AAPA Annual Report 1996-97:45). However, the applicant may request a

³⁰ s.25 and s.33.

³¹ This may be significant in cases where the AAPA has not consulted fully with custodians of the area in question or where Certificates may be granted for use or works over an extended period of time during which changes in the composition and attitudes of custodians may occur. With regard to the latter concern, the AAPA normally issues Certificates with a maximum of two years' currency. It also raises the issue of the process by which the consent of custodians is gained, particularly the appropriateness of various consultation processes, and the potential for errors to result from such processes (see Chapter 11 for further discussion of consultation issues). It would appear that the AAPA could revoke an Authority Certificate if an error was discovered, but this may incur court action for damages against the AAPA by the holder of the original Certificate.

meeting with custodians to discuss the application in person. If custodians wish to enter into an agreement with the applicant the AAPA acts as 'an arbiter, not a broker', and must satisfy itself that an agreement has been reached and that it is in accordance with the wishes of all relevant custodians.

The AAPA typically arranges meetings, liaises with all parties concerned and assists in the reaching of an agreement. However the AAPA also provides that:

Custodians will be consulted as to which person or organisation they wish to represent them in negotiation. If requested the Authority will arrange for an independent negotiator to be appointed to assist custodians. Any agreement will then be referred to the Authority for consideration (AAPA Annual Report 1996-97).

Criticisms of the Authority Certificate process

While these provisions seek to ensure procedurally fair and culturally appropriate consultations with custodians, a criticism of the Act is that it does not require the AAPA to 'carry out its functions in a way that respects Aboriginal Law' (Central Land Council 1998:2). The extent to which the AAPA *does* attempt to do so is because the AAPA Board (made up of a majority of senior Aboriginal custodians nominated by the Land Councils) has instituted its own administrative arrangements for that purpose. However, the view of the Central Land Council is that the Act should specifically bind the Authority to do so (1998:2). Their view is based on a concern that the Authority 'is not sufficiently independent of Government' (1998:2).

Another criticism of the Authority Certificate process is that proponents are not required to seek a site clearance before proceeding with a project (1998:2, Reeves 1998:280).

While the legal indemnity against prosecution which an Authority Certificate provides is an incentive to obtain one, it has not been sufficient to ensure that this occurs for all land use projects. Furthermore, as the CLC points out, 'providing a defence that the person did not know that an area was a site...removes the incentive for developers to obtain clearance certificates before commencing work' (Central Land Council 1998:2). The AAPA's defence of this criticism is summarised in the Evatt review:

Relatively minor works may damage or interfere with sacred sites. This means that in order for such a provision to be effective, Authority Certificates would need to be mandatory for relatively minor projects. As it is essential that Aboriginal custodians be consulted before certificates are issued, this requirement would necessitate that they be involved in numerous applications for relatively minor works. Such a burden would not be acceptable (1996:318).

However, the effect of what the AAPA is saying is that some 'relatively minor works' and some major works *will*, as a consequence of a non-mandatory process, 'damage or interfere with sacred sites', and that the sanctioning of such a level of collateral damage has been a conscious decision by the Government, made on behalf of affected custodians. While it is true that the burden of consultations on custodians (and on Aboriginal communities in general) is a serious issue (Edmunds 1994:166)³², it is also unlikely that custodians of sites damaged as a result of such policy would regard prior consultation to have been unacceptable. In reality, further reasons for a non-compulsory site clearance process are to be found in the additional costs to land users as well as to government in terms of an increased case load and administrative burden on the AAPA. Clearly, legislative policy has disproportionate impacts throughout different sectors of the community and it is therefore incumbent on legislators to acknowledge such impacts and to deal with these in an equitable and honest manner. In this case, failure to acknowledge the collateral impacts on Aboriginal sites of such legislative policy is also accompanied by a lack of provision in the legislation for

³² See also Chapter 11.

appropriate compensatory mechanisms for custodians whose sites are damaged by the failure of land users to seek site clearances³³ (see also below).

On the other hand, a further consequence of a non-compulsory procedure is that inappropriate works or use is likely to be encountered in progress and it is therefore necessary to have an emergency procedure for halting such works or use before further damage or injury occurs. Here the provision of presumptive protection and effective criminal sanctions in *Sacred Sites Act* means that the act of informing the person or persons interfering with a sacred site that it is a sacred site, carries legal significance, enabling the grounds for injunction and prosecution if the interference is continued. This can be done by the custodians themselves or any agent on their behalf and does not require an application to either the AAPA or the responsible Minister.³⁴ In practice verbal notification is usually sufficient to halt any such activities (but see 10.1 for an example of where verbal notification was ignored).

A further criticism relating to the Authority Certificate process is the existence of a review procedure under s30, which may result in the Minister overriding decisions of the custodians and the Authority by issuing a Minister's Certificate approving work on sites (s32(1)(b)). However, this is not an unencumbered power. Under the s30 review

³³ A similar argument can be made with respect to sites intentionally damaged or vandalised as a result of the sites' registration and sign-posting as a sacred site (cf. the example of the theft of a sacred boulder given at the beginning of Chapter 1). In most instances the identity of those involved is never established, making normal claims for criminal compensation impossible. More recently the cultural basis for seeking compensation from non-Aboriginal people has been questioned:

So, while there may be an expectation on the part of Aboriginal custodians that they be paid compensation, it is difficult to identify a basis in Aboriginal tradition, or European law, for such compensation to be paid by a person who is not a traditional Aboriginal person (Reeves 1998:286).

Such an argument, however, is suspect (see, for example, Sutton 1999:14).

³⁴ Compare this with the emergency procedures proposed by the Commonwealth in its *Aboriginal and Torres Strait Islander Heritage Protection Bill, 1998*. Emergency procedures, by definition, exist to prevent in-progress or imminent damage and therefore, the ability to initiate action immediately without the delay of a formal application may prevent needless damage from occurring (Evatt 1996:160-165).

process the Authority must initially attempt to obtain a satisfactory resolution and, if unsuccessful, must provide a report to the Minister on the circumstances of the case, including relevant documentation (s30(4)). The Minister must consider this report and its recommendations together with other information the Minister considers appropriate and take into account the wishes of custodians relating to the protection of sacred sites. The Minister may then either uphold the Authority's recommendations or issue a Minister's Certificate. In so doing, the Minister must 'provide written advice to all parties affected by the review of the Minister's decision and the reasons for the decision' (AAPA 1994:13). The Minister's decision is not subject to statutory review, however, as the AAPA points out, 'a body of legal opinion suggests that as a consequence of the wording of s.73 of the *Land Rights Act*³⁵ the Minister may not be able to issue a Certificate for works that would amount to the desecration of a site if this is contrary to the wishes of Aboriginal custodians' (AAPA 1994:8). This opinion has not been tested in court and it is worth noting that in challenging the Minister's decision in court, the need to prove the act of 'desecration' presents a number of difficulties.³⁶ The single instance to date in which the Minister has issued a Minister's Certificate was in the case of the Todd River Flood Mitigation Dam, and in that instance the Federal Minister intervened under s.12 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, overriding the Northern Territory Minister's approval.

A better response from the Northern Territory Government in relation to the Act was to direct that Authority Certificates must be obtained for all government capital works. Government capital works, including development within Gregory National Park, account for a significant proportion of all development work in the VRD. Authority

³⁵ S.73 limits the powers of the Northern Territory Government in enacting sacred sites legislation to providing for 'the prevention of desecration of sacred sites'.

³⁶ Difficulties include the fact that 'desecration' is not defined in the Act. See also at note 28 in this chapter.

Certificates are also commonly sought by private sector developers and the mining industry. Probably the most common types of works for which Authority Certificates are not obtained are those on pastoral leases.

Other criticisms of the Act

There have been a number of further criticisms of the *Sacred Sites Act*. One of these argues that the Act provides 'second class' protection to sites on non-Aboriginal land (NLC 1998:14). This is because of the inclusion in the Act of a defence against prosecution for desecration, illegal entry and damage to sites where 'the defendant had no reasonable grounds for suspecting that the sacred site was a sacred site' (s36). On Aboriginal land this defence is not available. This, coupled with protections provided in the *Land Rights Act* mean that sacred sites clearances are effectively compulsory on Aboriginal land.

A related concern of the Northern Land Council is that of conflicts caused as a result of the different though overlapping statutory client bodies of the AAPA and the Land Councils. The former is responsible to 'custodians' and the latter to 'traditional Aboriginal owners', defined in the *Land Rights Act* as:

...a local descent group of Aboriginals who:

- a) have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and*
- b) are entitled by Aboriginal tradition to forage as of right over that land.*

The NLC is concerned that:

The NT Aboriginal Sacred Sites Act has been applied so that Custodians who are not traditional owners have been consulted by the AAPA in preference to

those identified by the NLC as having primary spiritual responsibility for a Sacred Site. This has caused disputes among Aboriginals and weakened the protection that such important sites require (NLC 1998:15).

The NLC concludes that the term 'custodian' is inappropriate and should be replaced in the *Sacred Sites Act* by 'traditional Aboriginal owners' (1998:15).³⁷ The potential for conflict between the AAPA and the Land Councils underlines a further concern that 'there is no statutory framework for communication or consultation between the AAPA and the Land Councils' (1998:14), or for inclusion of the Land Councils in AAPA mediation processes regarding Authority Certificates (1998:16).

NT law also places archaeological sites which are not known to be 'sacred sites' under the *Sacred Sites Act* under separate heritage legislation, the *Heritage Conservation Act 1991*. However, many 'archaeological' sites have been recorded without the knowledge or approval of Aboriginal traditional owners, suggesting that many of these sites could in fact be sacred sites.³⁸

The 'Sacred Sites Act' and the Commonwealth's 'Aboriginal and Torres Strait Islander Heritage Protection Bill, 1998'

Despite the deficiencies of the *Sacred Sites Act* outlined in the preceding sections, recent moves by the Commonwealth to amend its own Indigenous heritage legislation have brought the comparative strengths of the *Sacred Sites Act* into sharp relief. An authoritative review of the Commonwealth Act by Justice Elizabeth Evatt found the

³⁷ This was also argued in the NLC's submission to the review of the *Land Rights Act* by John Reeves, QC, but was rejected in his findings (Reeves 1998:282-283). A submission to the review by Dr. Peter Sutton on behalf of the Australian Anthropologists' Association also opposed replacing 'custodian' in the *Sacred Sites Act* (Sutton 1999:13-14).

³⁸ It is in any case arguable that 'archaeological' sites are of significance to the traditional owners of the country (see NLC 1998 for comment on this issue).

Sacred Sites Act to be closest to what she envisaged as a national benchmark (Evatt 1996). Evatt proposed a set of minimum standards for Aboriginal heritage protection legislation. Such legislation should:

HERITAGE BASED ON SIGNIFICANCE³⁹

...include a [broad] definition of Aboriginal cultural heritage which...should extend to areas and objects of significance to Aboriginal people in accordance with tradition, including traditions which have evolved from past traditions. It should also extend expressly to historic and archaeological sites' (Recommendation 6.1).

BLANKET PROTECTION

...provide automatic/blanket protection to areas and sites falling within the definitions outlined above, through appropriate and effective criminal sanctions (Recommendation 6.2).

ABORIGINAL CULTURAL HERITAGE BODIES

...include the establishment of Aboriginal cultural heritage bodies with responsibility for site evaluation and for the administration of the legislation. They should:

- *be independent;*
- *be controlled by Aboriginal members representative of Aboriginal communities;*
- *have gender balance;*
- *have adequate staffing, expertise and resources; and*
- *have access to independent advisers, e.g. anthropologists, archaeologists. (Recommendation 6.3).*

ASSESSING SITES A SEPARATE ISSUE

...provide for assessments relating to the significance of sites and areas to be separated from decisions concerning land use. The former should be the responsibility of Aboriginal heritage bodies; the latter the responsibility of the executive (Recommendation 6.4).

STATE AND TERRITORY PLANNING PROCESSES

...State and Territory planning and development processes should include...:

- *Integration of Aboriginal cultural heritage issues with the planning and development process from the earliest stage.*
- *An effective consultation/negotiation process for reaching agreement between developers and the Aboriginal community facilitated by a responsible Aboriginal heritage body.*
- *The object of negotiation should be to reach agreement on work clearance or site protection... (Recommendation 6.5).*

³⁹ This and some of the following recommendations have been edited to highlight their key aspects.

CONFIDENTIALITY

...include confidentiality provisions to protect information provided in the course of administering State and Territory heritage protection laws from disclosure contrary to Aboriginal tradition, (without specific authorisation).

Such laws should prohibit any requirement to provide information where to do so would be contrary to Aboriginal tradition.

Such laws should provide for the protection of information which must not, according to Aboriginal tradition, be disclosed to persons of one particular sex (Recommendation 6.7).

ACCESS TO SIGNIFICANT SITES

...include provisions to ensure the right of access of Aboriginal people to significant sites on Crown land for the purposes of their protection and preservation and for traditional purposes (Recommendation 6.8).

EFFECTIVE CRIMINAL SANCTIONS

...include: criminal sanctions with adequate penalties, and limited defences;

provision to ensure that criminal sanctions are effectively enforced;

provision to enable Aboriginal people to act as inspectors, to monitor compliance and to launch prosecutions (Recommendation 6.7).

The *Sacred Sites Act* meets these minimum standards and in some instances exceeds them. For instance, Evatt's proposed standard for states and territories concerning access to sites refers only to Crown land whereas the *Sacred Sites Act* provides access to sites on any land, including freehold tenures. An implication of Evatt's proposed standard, which is in contradiction to other findings of her report,⁴⁰ is that Aboriginal traditional practices with respect to sites outside Crown land would have no legislative backing. Sourcing the standard to a report reviewing Western Australian heritage laws,⁴¹ Evatt agrees that 'access to sites on private land should be a matter for private agreement between the land owner and the relevant Aboriginal people, but should be encouraged' (1966:94). However, a lot rides on the word 'encouraged',

⁴⁰ For instance, Evatt recommends that a declaration under the Commonwealth Act 'may include provisions concerning access to a site for the purposes of inspection, protection and preservation of an area and for traditional purposes' (Recommendation 7.6 – see her discussion at p106). She elsewhere notes that 'Aboriginal management of, and access to, their sites is of fundamental importance to the management of their culture and religion', and that rights of access to religious and cultural sites is reflected in Articles 12 and 13 of the draft Declaration on the Rights of Indigenous Peoples (1996:93). It is difficult to reconcile these aspects of her report with her limited proposed state/territory standard regarding access.

⁴¹ Minter Ellison Northmore Hale (Dr Clive Senior) Review of the Aboriginal Heritage Act 1972: Prepared for the Minister for Aboriginal Affairs Western Australia 1995.

particularly when the provision of such encouragement is not in itself a minimum standard. In fact, as mentioned previously, even with the statutory access provisions of the *Sacred Sites Act* (and similar rights of access in some other legislation)⁴² Aboriginal access is often unaddressed in consultations over sacred sites or else can be effectively denied where no mechanisms exist to enforce such rights and where uncooperative relations obtain between Aboriginal custodians and landowners. This warrants, I suggest, special measures to overcome such barriers, of which a statutory right of access, like blanket protection for sites, would act as a rarely used safeguard, with most situations being capable of resolution by voluntary agreement.⁴³ To this end, encouragement and facilitation of voluntary access agreements should also be a legislatively defined function of Indigenous heritage bodies, together with provision for maintaining a register of such agreements.

An additional concern with limiting statutory access rights to Crown land is that in the Northern Territory and elsewhere in Australia there has been an increasing trend towards freeholding some Crown leasehold tenures, particularly pastoral leases. Already this has resulted in the Northern Territory in freeholded pastoral holdings, which are as a consequence not subject to the statutory access provisions for the purposes of hunting and foraging contained in the *Crown Lands Act 1992*.

Deficiencies aside, in proposing minimum standards for state and territory legislation Evatt stops short of recommending that these standards be applied to the Commonwealth's own procedures. Instead, Evatt proposes a model based on

⁴² For example, in the *Crown Lands Act, 1992* and the *Territory Parks and Wildlife Conservation Act*. It is worth noting that the *Sacred Sites Act* fails to include offence provisions for obstructing such access.

⁴³ I would argue that an offence provision with criminal sanctions and effective enforcement provisions is needed in relation to the obstruction of access. Evatt herself acknowledges that effective criminal sanctions and enforcement are necessary to ensure the effectiveness of offence provisions (Evatt 1996:95-97).

Commonwealth accreditation of state and territory legislation with the Commonwealth Act remaining as a statute of last resort, available only when all avenues of state or territory legislation have been exhausted. This raises the inconsistency that if the standards are not also provided in the Commonwealth Act, then those custodians seeking last resort or emergency protection must do so under potentially inadequate standards (see for example ANTaR 1999b).

This is appearing as a possible outcome, for whatever the relatively minor deficiencies of Evatt's recommendations, these pale into insignificance in comparison with the deficiencies of the bill which the Federal Government has drafted in response to her report. The Bill rejects Evatt's last resort model in favour of one which limits access to the Commonwealth's legislation to cases involving sites regarded as of national significance. The Bill does incorporate Evatt's proposal for the accreditation of State and Territory regimes⁴⁴ but crucially, fails to include key minimum standards⁴⁵.

The Northern Territory Land Councils argue that the failure of the Commonwealth Bill to enforce adequate minimum standards for state and territory legislation makes it possible for the Northern Territory Government to significantly water down the current *Sacred Sites Act* (NLC 1998:13).

⁴⁴ In doing so the Bill also unwittingly incorporates anomalies inherent in Evatt's model of accreditation, such as the fact that custodians of unaccredited states or territories may continue to be denied access to minimum standards (ANTaR 1999b).

⁴⁵ The principal omissions from Evatt's finding include the failure to make the bill a 'statute of last resort' in all cases (the bill only envisages protecting sites where it is deemed to be in the 'national interest'; failure to establish an independent Indigenous Heritage Agency; and failure to provide adequate accreditation standards for state and territory regimes.

9.5. Protecting sites: Indigenous non-confrontationist strategies

So far, discussion in this chapter has focused on how governments have approached the issue of protecting Indigenous heritage sites in the context of non-Indigenous land ownership and land use. We now need to contrast this with consideration of how Aboriginal custodians themselves have approached the issue of protecting sacred sites.

In coming to terms with the imposed alienation of traditional lands and the resulting collateral damage and loss of access to some sites it is clear that VRD Aboriginal people have not ceded their cultural rights under Aboriginal law over such areas. Instead they have developed and relied upon alternative strategies in order to negotiate the maintenance of cultural links on alienated land and to ameliorate inappropriate impacts on sites. These strategies are non-confrontational in approach, consisting of:

- maintaining a physical presence where possible;
- maintaining secrecy about the existence, nature, significance and names of sacred sites, and;
- attempting where possible to forge relationships with sympathetic whites based on reciprocity or exchange.
- the use of interactional strategies in cross-cultural communication.

Of course, a major weakness of non-confrontationist strategies (particularly that of secrecy) in the context of unequal power relations, is the likelihood of collateral impacts on cultural sites resulting from the uninformed and undeflected actions of Euro-Australians. On the other hand, as responses to non-Indigenous dominatory practices,

these non-confrontationist strategies are premised around customary practices relating to the protection and care of sacred sites. That is, these are cultural adaptations or innovations which enable the integrity of internal Aboriginal social and religious practices to be maintained. For instance, maintenance of customary law restrictions on information relating to such sites is an important aspect of Aboriginal systems of land tenure and has similarly remained a principal consideration in their responses to non-Indigenous occupation and use of the land. Aboriginal religious practice also relies on establishing reciprocal relations and understandings with other groups. In the VRD, religious gatherings are preceded by conflict resolution, gift giving and *winan* (trade), while the conduct of ceremonial gatherings includes the demonstration and exchange of religious information and ritual practices (see, for example, Laurie Roberts' comments at 7.4.).

Importantly, considering the long history of intercultural relations, the possibility of using statutory rights to protect sites emerged only relatively recently (from the late 1970s) and remains a comparatively seldom-used, usually last resort means of intervention, being substantially at odds with the non-confrontationist approaches of custodians. As will be seen, the use of such rights is heavily influenced by the nature of the intercultural power relations at play and by the confidence and understanding custodians have of the *Sacred Sites Act* and those who administer it.

Maintaining a physical presence

Aboriginal use of Timber Creek town space can be viewed, at least in part, as the adoption of non-confrontationist responses to the development of the town around important sacred sites. Although having had no say in its location and the consequent appropriation of key permanent waterholes on the creek, Aboriginal custodians have,

by their continued presence and usage of the area, maintained a countervailing force to its wholesale appropriation to private non-Indigenous use. This has involved not only the strategic positioning of camps and communities, but perhaps more significantly, the ways in which the town space is used for fishing, foraging, as day camps, or to sit and interact socially with other community members or visitors to the town, and to monitor the activities of the non-Indigenous community. Significantly, these responses do not involve Aboriginal people invoking statutory rights or otherwise confronting white members of the community directly about their concerns regarding the impacts of non-Indigenous activities on the landscape.

Establishing a permanent presence at or near a cultural site helps protect the site from non-Indigenous intrusion and maintain the cultural amenity of the surrounding area. An example is the 1-Mile community on the outskirts of Timber Creek township. It was originally an informal town camp located to conform to the so-called '2km law' (prohibiting the public consumption of alcohol within two kilometres of a licensed outlet). At 1-Mile, houses shield two sacred eucalypt trees associated with an important local Dreaming, helping to protect the site from encroachment and damage by local whites. The community is located on Timber Creek beside a waterhole which is associated with the same Dreaming. All the Aboriginal community locations in the study area are also sacred sites, with dreaming-related physical features such as waterholes and trees.

Frequenting a location also minimises the risk of non-Indigenous interference and, in town situations, may also provide a vantage point for monitoring non-Indigenous activity. For instance, Aboriginal people at Timber Creek use nearby waterholes which are also culturally-significant sites, for informal day camps at which to sit and pass the time or at which to drink alcohol close to the liquor outlets, but out of sight of police and white townsfolk. These locations become known by white townsfolk, who accordingly

avoid them.

Maintaining a physical presence also has other important cultural implications. The choice of culturally significant locations establishes a claim to such places based on Aboriginal cultural rights. For instance, the very existence of the site at 1-Mile community and the exercise of customary rights over it, reinforces the primacy of such rights over those of Euro-Australians. Another effect of maintaining a physical presence is that ties to the area are strengthened and multiplied by the long period of residence of people from many different groups. Much of this has focused on the camps and pensioners' camps, at which many people have been born or died, and through the ritual observances and performances which have occurred at numerous locations in the vicinity.

Yet the contemporary cultural significance of such ties to the Timber Creek township is generally overlooked or discounted by the white community which tends to view the existence of a town-based Aboriginal presence as evidence of a loss of traditional culture and of an increasing desire for and dependence on European goods and services. Without an appreciation of the (pre)existing Indigenous cultural landscape and the cultural practices which continue to occur within it, Aboriginal use of space in Timber Creek is interpreted by whites as being non-traditional. They simply do not see a traditional underpinning in the behaviour of Aboriginal people and their use of town space. Moreover, the spectre of public drunkenness resulting from the ready availability of alcohol at the town's two pubs only serves to reinforce non-Indigenous perceptions of cultural breakdown.⁴⁶ The tenor of the white population's attitudes towards local Aboriginal people in Timber Creek could be described as at best

⁴⁶ For an account of the racial stereotyping of Aboriginal drunkenness by Europeans see Langton 1997.

paternalistic and at worst, aggressively racist. Thus, ironically, maintaining a presence strengthens Aboriginal cultural attachment but at the same time is perceived negatively by local whites.

Protecting sacred sites through secrecy

As we have seen, one of the fundamental aspects of the relationships which have developed between whites and Aboriginal people in the VRD has been the lack of information about sacred sites and other areas of cultural significance which has been revealed by Aboriginal custodians. Even those pastoralists who have had close links with local, station-based Aboriginal communities and who are regarded by them as sympathetic, appear to know very little about the sacred sites and Dreaming tracks which are located on their pastoral leases. The reasons for this are complex (see Chapter 6), but have relied to a significant degree on the maintenance of secrecy about sites.

Such secrecy has not been confined to pastoral relations. For example at 1-Mile Camp, the fact that the trees were culturally important had not been revealed to local whites previously, even though they had ready access to the vicinity and, therefore, also a significant potential to inadvertently damage them. Moreover, once established as a permanent community, the houses, toilet blocks and fences were constructed around the trees without any attention being drawn to the fact that they were important. The community was in existence for more than ten years before custodians of the site revealed the importance of the trees and requested that they be registered by the

AAPA.⁴⁷

The use of secrecy has a strong basis in Aboriginal customary law and the associated highly developed notions of rights to knowledge in Aboriginal societies. The maintenance of customary law restrictions on certain information relating to such sites and the rights of certain individuals, as a consequence of seniority or birthright, to speak about sites, are important aspects of Aboriginal systems of social organisation and land tenure. The exclusion of whites from such knowledge, therefore, could be said to carry political as well as strategic significance.

As noted in the previous chapter, an unforeseen consequence has been that pastoralists have developed a deep scepticism about sacred sites in the face of legislative and administrative advances since the 1970s which have resulted in information about the existence and location of sacred sites entering the public domain. To a pastoralist who may have worked closely with Aboriginal people on a pastoral lease for twenty or thirty years, the 'sudden' emergence of sacred sites they never knew to exist seems highly suspicious,⁴⁸ particularly amidst the rumour and scare-mongering concerning land rights claims and sacred site protection which has pervaded the non-Indigenous community of the Northern Territory.

Establishing cooperative relations with sympathetic whites

Despite a more general reliance on a strategy of secrecy, it is also apparent that in some cases pastoralists established relations with Aboriginal station communities in

⁴⁷ In fact, the registration of the site was requested following incidents in which two significant waterholes along the creek adjacent to the Timber Creek commercial centre were damaged by whites.

⁴⁸ See interview with Lloyd Fogarty 8/6/95.

which the protection of sites received explicit, if perhaps limited, attention. The following account from a central Australian pastoralist frames such consideration in terms of a cooperative exchange:

Bowman tells us that in return for such loyalty, he made an effort to respect local people's sacred places: 'I would agree not to do any stockwork in that particular area or go there with any uninitiated boys and they would undertake not to interfere with any stock running in the locality.' (Rowse 1998:63, quoted from Bowman nd:31)

Bowman's statement that the sites in question were restricted to uninitiated boys (and therefore, also to women) suggests that the sites involved were either 'secret-sacred' totemic sites or men's 'business' grounds. A further reason for alerting pastoralists about some sites was to protect otherwise unwitting whites from injury or from causing calamitous consequences by entering or damaging potentially dangerous sites. Wandoan Hill, which Peter Murray and other whites were told about on Coolibah Station (see Chapter 7) is one such example. Trusted Welfare Officers were also sometimes a conduit for such concerns. On VRD Station, Jack Doolan was asked to help fence off a group of white stones which could cause 'dire consequences' for women or children who ventured too close.⁴⁹

These examples illustrate the importance of establishing cooperative relations with sympathetic whites. However, considering the vast number of sites and site features dotted through the landscape, it appears that very few sites were singled out in such ways. The most common and vulnerable sacred site features in the VRD are trees, of which there are literally thousands in the study area. Their frequent presence at permanent water sources (and hence also in the vicinity of most homesteads, outstations and yards), and their potential for use as building and fence posts make Dreaming trees particularly vulnerable. Avoidance of damage to such features

⁴⁹ Doolan nd.: Acting District Welfare Officer to Director of Welfare, 17 May 1973. 73/2276

sometimes required action during the course of pastoral work. On Humbert River Station, for example, Aboriginal custodians showed me a large sacred bloodwood tree which they had once convinced a white overseer not to cut down for fence posts. Sometimes their concerns went unheeded. At another site on Humbert, Kalumbirri, Aboriginal workers were unsuccessful in preventing a white station worker from cutting down a number of sacred white gums to use to construct a yard. The white ringer later died and the story, often retold, on one level has become a cautionary tale about the failure of whites to listen or 'believe'.⁵⁰ Aboriginal stories about such incidents are common. On many stations (for instance, Victoria River Downs, Auvergne and Humbert River, to name some examples known to the author) it appears that custodians never revealed the existence of sacred trees in the immediate vicinity of the homesteads during the entire period of the pastoral era.

Although pastoralists invariably claim that sacred sites were always respected, the limited degree to which Aboriginal custodians appear to have raised such issues suggests, alternatively, a low expectation of cooperation, or a conscious religious or strategic reasoning for declining to inform pastoralists. Other factors no doubt also minimised the extent to which Europeans needed to be informed about sites. For instance, station work was often carried out by Aboriginal workers without white supervision. Also, it was not unusual for Aboriginal people (particularly 'half-castes') to be employed as head stockmen. On Auvergne during Lloyd Fogarty's time there were Aboriginal head stockmen. This meant that the organisation of pastoral work so as to avoid damage to sites was more easily achieved and did not require alerting whites about the sites. And in more recent times, the approach of Alan Andrews on Auvergne is a pertinent illustration of how the establishment of cooperative relations can achieve a high level of protection of culturally significant areas whilst minimising the need to

⁵⁰ Fieldnotes of the author.

disclose information about sites.⁵¹

The use of interactional strategies in cross-cultural communication

As a way of protecting sites, secrecy on its own is not a particularly effective strategy. As we have seen, establishing relationships with sympathetic whites allowed some degree of disclosure of concerns about sites, but even here the extent of disclosure appears to have been mostly limited. However, what such relationships and in fact other less cooperative or friendly relations enabled was the opportunity to use strategies of intercultural communication to achieve desired outcomes without articulating the actual nature of the concerns. For example, as we have seen, some Aboriginal workers used indirect or indeterminate statements in apparent attempts to alert Lloyd Fogarty about their concerns or at least to deflect a proposed action which might have damaged a site. Explanations which mask the real intent of the speaker have long been commonly-employed techniques. On stations, for instance, whites could be kept away from sensitive locations by perhaps suggesting the use of a particular route or by organising to muster cattle from sensitive locations. Chapter 6 has provided a detailed discussion of cross-cultural interactional strategies which I will not duplicate here.

9.6. Barriers to Indigenous access to statutory processes

Conflict with non-confrontationist strategies

A major stumbling-block with statutory processes for Aboriginal custodians is that

⁵¹ It needs to be noted that a crucial aspect of the relationship is that Alan confers with the senior Aboriginal landowner before carrying out works on the station.

these conflict with preferred non-confrontationist and non-disclosure strategies in a number of significant respects. The first and most obvious conflict is that the act of requesting statutory protection for a site is perceived as confrontational in that it requires challenging the rights or interests of white land owners and users of the site or area. Such an approach may not only further endanger already problematic intercultural relations but risks a broader backlash from other local whites.⁵² For these reasons, custodians often prefer to deal with such matters through an intermediary (for example, an AAPA or land council field officer) and it is not uncommon for Aboriginal people to deny any concern for the area if subsequently confronted by inquiring white land owners or others with interests in the area.⁵³

An incident related to sacred sites within the town of Timber Creek provides a good example of these issues. It concerns a number of sacred sites which Aboriginal custodians requested be registered under the *Sacred Sites Act* in 1993. In accordance with the act, the sites were documented and a map was provided to the local white landowner on whose property some of the sites extended. Some time later the landowner (who was a former station manager well-known to the local Aboriginal community), asked me who had requested the sites be registered, saying that he had asked local senior custodians and an Aboriginal representative on the local community government council, and all had denied any knowledge of the sites or the requests for registration.⁵⁴ In fact, two of the people he talked to were the senior custodians who had requested the registrations, indicating, at the very least, that they were unable to admit to his face the action they had taken with respect to sites on his land. So what had appeared to the landowner to be an unproblematic communicative event was in

⁵² Such a backlash has been most apparent with respect to the lodging of claims under the *Land Rights Act* (see, for example, Merlan 1991b).

⁵³ Liberman 1985:240.

⁵⁴ Pers. comm., 1995 (name withheld).

fact the very opposite. This thesis has sought to develop the argument that this is and has always been a common feature of intercultural relations in remote areas.

Conflict with customary law restrictions and protocols over knowledge

Another major drawback of statutory processes is that they may conflict with customary law restrictions and protocols over cultural information; for example, through requirements to reveal information about sites to heritage bodies or to the local non-Indigenous community. This is particularly important in view of the fact that information is a commodity of paramount value in Aboriginal societies. The 'ownership'⁵⁵ of certain kinds of religious information, for example, invests individuals and groups with the authority to exercise rights and responsibilities over land. Aboriginal custodians consider that their knowledge regarding sacred sites, together with the authority to control its access and use, constitutes a form of proof of their rights and responsibilities to land under Aboriginal customary law (see, for example Morphy 1983, Michaels 1985).

However, in the context of an unsympathetic and unpredictable local non-Indigenous community, there is no guarantee that such proof will be understood and respected or even recognised. A further risk is that if knowledge about sites is revealed to whites, then any subsequent damage may invite an accusation against its custodians that their actions were at fault in identifying the site to whites. In contrast, there exists an understanding within the Aboriginal community that maintaining secrecy about sites denies whites access to the proof constituted by Indigenous knowledge and naming of

⁵⁵ 'Ownership' of information is most manifest in the right of certain individuals to disclose (or not) information about sites in public forums to the exclusion of others who may also know the information, but do not have right to speak about it.

the landscape. Many times while navigating through country with Aboriginal people, the point has been made that whites have to rely on maps and positioning technology to find out where they are - the implication being that this demonstrates their lack of knowledge and hence lack of authority with respect to the land. This is an understanding which draws its force of argument from the recognition, within local Aboriginal cultures, of rights based on the segmentation and control of knowledge.

Euro-Australian ignorance of, and hostility towards, Aboriginal cultural interests

Problematic cross-cultural relationships are symptomatic of impaired communication and understanding which results in actions based on ignorance and prejudice. For instance, there is little understanding within the non-Indigenous community of the extensiveness and diversity of areas of religious and experiential significance for Aboriginal people. In fact, a common misconception amongst local whites is that 'alleged' sacred sites are often invented to advance claims to land or to prevent development projects⁵⁶. Such views serve to maintain an atmosphere of fear and mistrust in the local community which has caused some landowners to misunderstand and resist attempts to document and register sacred sites on their land.

Misconceptions are also implicit in local ideologically-justified acts of racial exclusion effected by the appropriation of areas by members of the non-Indigenous community. An incident raised in an earlier chapter concerning barbeque facilities for tourists

⁵⁶ Liberman 1985: 250. Understanding the genesis of this view requires an historical perspective in that the systematic documentation of sacred sites emerged relatively recently as a result of land rights legislation of the late 1970s. It is easy to see how newly identified sites could be regarded with suspicion by local whites whose knowledge of totemic geography was extremely limited due to the lack of communication of information about sites by Aboriginal custodians. Such suspicion is often directed at anthropologists and 'white advisors' who are seen as manipulating Aboriginal people into making false claims.

erected by local white Timber Creek residents on a section of escarpment overlooking the town, illustrates the point. Their failure to consult with Aboriginal custodians reveals, amongst other things, a misconceived notion that Aboriginal cultural values either do not apply to or should not be recognised on, the non-Aboriginal land in question. The defiant nature of the action is underscored by the earlier history of the site. Originally without vehicular access, the track onto the escarpment was constructed for the purpose of building and servicing a microwave telecommunications tower in the 1980s. The consent of traditional owners of the area, for whom the escarpment is significant because of its association with an important Dreaming ancestor, was obtained on condition that public access onto the escarpment would be prevented by a locked gate. However, once constructed, the locked gate was repeatedly torn down by local whites who have since continued to access the area. These examples illustrate not only ignorance, but also a degree of suspicion and hostility towards the recognition of Aboriginal interests which is fairly characteristic of non-Indigenous members of communities in the VRD and in most other areas of the Northern Territory.

Unsympathetic social environment

A manifestly unsympathetic and sometimes hostile social environment reinforces the reluctance or inability of Aboriginal members of the community to assert their own interests and legal rights. Most legislation offers no real solution to this problem in that mechanisms for obtaining remedies, such as requesting assistance from police or briefing lawyers, are unlikely to be invoked by Aboriginal people in remote areas. Police are generally geographically remote and in any case often difficult for Aboriginal people to approach, being the enforcers of Anglo-Australian law against members of the Aboriginal community and also simply by being part of what is perceived as a

largely unsympathetic non-Indigenous local community. As an illustration, in over a decade of experience with incidents of unauthorised access and damage to sacred sites in the region, I have never known Aboriginal custodians to have approached local police to seek their assistance in halting such activities or to caution the offenders.⁵⁷ There is even less likelihood that Aboriginal people would complain to police if they were obstructed from access to pastoral land for hunting and gathering purposes⁵⁸. An additional problem is that Aboriginal people are faced with having to deal with those they would be in conflict with in a number of other social and formal contexts within the local community.

These more fundamental and deep-rooted problems generally preclude dispassionate consideration of the specifics of legislation dealing with Indigenous rights. Poor understanding of the nature of Aboriginal spiritual attachment to land and concepts of culturally significant areas or sacred sites feeds a process of circular causality - constituting reasons for and being the result of, ongoing patterns of hostile and uncommunicative intercultural relations. This is not helped by the fact that such legislation is fragmented, offers little in the way of coherent explanation of substantive issues, and is generally viewed as an unwarranted incursion on their proprietary rights by non-Indigenous landowners.

Lack of familiarity with and confidence in legislative processes

A further drawback of legislative remedies is the remoteness and unfamiliarity of

⁵⁷ Even in emergency situations where works are being carried out on sites, such as the example in Case Study 1 in Chapter 10, custodians contact the AAPA or NLC to intervene rather than approaching local police.

⁵⁸ For example, in 1993 an Aboriginal man complained to me that he and a group of others who were fishing on the Victoria River inside Auvergne, had been moved on by the manager of the adjoining property. They complied but no attempt was made to complain to the police by the Aboriginal people involved, even though they were aware of their legal right to be there.

legislative processes to most Aboriginal people. This means that it may take a long time for them to feel confident to use such legislation and to trust those who administer it. Statutory decision-making processes may also interfere with or over-ride, Indigenous processes, as by definition, statutory processes occur remotely from the local bases of Indigenous authority and involve executive or judicial determination of matters relating to Aboriginal Law. Willingness to use legislation is also influenced by considerations regarding their relationship with and level of trust in field researchers and others who act as intermediaries in accessing such rights. I have been told on occasions by Aboriginal custodians that they had avoided raising concerns with certain officials and researchers because of personal reservations or mistrust.

Risking confrontation: a case study of Aboriginal use of statutory powers in Timber Creek

Returning to the example of the waterhole behind Fogarty's, the recent history of its non-Indigenous use resulted in Aboriginal custodians adopting the more confrontationist approach of requesting the registration of the site by the AAPA.

In light of the discussion above, it is instructive to consider the circumstances of an example where custodians have used the *Sacred Sites Act* to secure the protection of sites. The case involves a sacred site which comprises a permanent waterhole and a number of significant trees on Timber Creek behind a pub-motel-caravan park complex in the township. In this case, the waterhole is located within crown land (but within the town area) immediately adjacent to but essentially appropriated into, the landscaped grounds of the complex. For many years the waterhole (the largest along this section of Timber Creek), together with a number of sacred trees, had remained unregistered as a sacred site although its existence was documented during research for the Timber

Creek Land Claim in 1982⁵⁹. In that time the site has remained accessible to custodians and has been occasionally used for fishing, and at least one of the sacred trees was made known to the landowners.⁶⁰

The site may have remained unregistered were it not for a crucial action by the landowners. One of the senior male custodians told me that what prompted their request to have the site registered was a recent incident in which a group of Aboriginal women had been 'hunted away' from the waterhole by the landowner when they visited it to fish one day, although the waterhole is not located on his freehold block. The landowner's proprietary attitude towards the waterhole has included the building of a suspension bridge across it to give tourists ready access to walking areas on the undeveloped opposite side of the creek, and also as a viewing platform for watching the fish and turtles in the waterhole. He stated to me that they were encouraging aquatic life by not allowing fishing in the waterhole to enhance its visitor attraction, and that if Aboriginal people were allowed to fish there then it would become 'fished out'⁶¹.

For the custodians of the site this was a serious rejection of their customary rights to use the waterhole, particularly in view of its importance as a sacred site. In most other respects custodians are accepting of the landowner's presence and of the fact that a number of sacred trees are located within the boundaries of their freehold land, and have stated that they trust them to look after the trees. The custodians also did not raise objection to the construction of the bridge across the waterhole (which involved minimal physical works), although, as far as I'm aware, there was no consultation with

⁵⁹ Although this appears contrary to the strategy of maintaining secrecy about sites, the process of documenting sites for a land claim and the subsequent production of a site map occurs within the context of the claim hearing and does not infer an intention on the part of custodians to disclose such information to the local non-Indigenous population. In fact, the land claim map has only had a very limited circulation and has not been used in planning issues relating to the town.

⁶⁰ Pers comm 1995 (name withheld).

⁶¹ Pers. comm. 1995 (name withheld).

the custodians of the site prior to its construction. In this instance, it was the denial of access for fishing which prompted the request for the site's registration. In a previous incident a request for the registration of a nearby site (also a waterhole) was prompted by the construction of a concrete weir across one end of the waterhole by the non-Indigenous owners of the adjacent freehold block. Here the issue was the fact that the site had been damaged and that this had occurred without any consultation with the custodians. Interestingly, the fact that in both cases the waterholes were not on land owned by the whites who were involved in the incidents, was not considered a significant issue by the custodians - an indication that the implications of Euro-Australian land tenure are seen as relatively inconsequential compared to the broader issue of white use of land without consideration of Aboriginal customary rights.

In fact, most of the sites at Timber Creek have remained unregistered even though the *Sacred Sites Act* has been in existence since the late 1970s and has been utilised by the custodians of the area since at least the early 1980s. Given that sacred sites located within town boundaries are particularly vulnerable to inadvertent damage, we must conclude that Aboriginal custodians prefer to rely on their own non-confrontationist strategies rather than legislative approaches in protecting such sites. This issue will be addressed in the following section.

9.7. Issues affecting the emergence of Aboriginal concerns about sacred sites

Aboriginal responses to past and present impacts on cultural sites

Aboriginal concerns about sacred sites which are emerging in the heritage protection

era represent to some extent the gradual release of a compressed and formerly repressed history of site damage. Aboriginal people retain a vast body of knowledge about past white settler activities which have damaged or encroached on sacred sites and other areas of cultural significance. The existence and significance of these incidents appear to have mostly been withheld from whites in the past, and this continues to be substantially the case, perhaps because the actions occurred prior to the current custodians assuming direct responsibility, or because they may feel that the encroachment is irreversible, for example, the siting of a homestead or other important European infrastructure on a sacred site. The possibility of successfully reversing such fundamental physical and symbolic expressions of European appropriation and occupation of the land would be inconceivable to most.

However, some more recent encroachments, and/or those assessed by Aboriginal custodians as involving areas or developments less valued by whites, are more likely to be raised as concerns in intercultural contexts. The cases raised in the preceding section are typical examples. In fact, such instances are the results of the processes of change which were instigated by the emergence of the heritage era, discussed in Chapter 8. Over the twelve year period I have been involved in site protection work with Timber Creek custodians, a gradual picture of the extent of their concerns has emerged. Initially concern was expressed about sites in areas over which Europeans had little or no interests, such as a vulnerable standing stone in a paddock close to where a station track passed, the site of an old pensioners' camp and graves opposite the commercial precinct of Timber Creek, and a section of escarpment (part of a local Dreaming track) which overlooks the town. Some time later custodians showed me a number of mythologically significant areas close to the town where gravel had been

removed in the early 1970s for roadworks⁶² and a site on Timber Creek behind one of the pubs where a landowner had recently built a concrete weir across the creek at a site which is part of the Dreaming track of the ancestral dingo, *Wirrip* (Plate 4). Later still, concerns were raised about sites (including a number of trees regarded as spiritually significant), which were located more centrally in the small commercial precinct, including on freehold blocks owned by white locals.

My argument here is that the pattern of elicitation of these site concerns reveals a number of intercultural issues which are of central concern in this thesis.

Reluctance to challenge the interests of whites

Firstly, the withholding of cultural information needs to be seen, at least in part, as a consequence of the history of hegemonic control of Aboriginal lives by whites - a history in which the possibility of Aboriginal custodians challenging the position of whites was virtually non-existent, and the risk of disbelief, ridicule or other adverse reaction a constant mitigating force against seeking formal concessions in relation to Indigenous interests in land. The fact that it has taken over ten years' gradual experience of cultural site protection legislation for custodians to begin to address site issues which affect property and other interests of local whites (apart from issues arising as a result of proponent-initiated Authority Certificate requests), indicates the sensitivity with which custodians perceive these relations and the embryonic nature of current efforts to address the power inequalities which continue to exist.

⁶² This was prompted by proposed upgrading work on the Victoria Highway for which large amounts of gravel would be required.

The importance of intermediaries and Indigenous support bodies

It also must be said that it is unlikely that many of these concerns would have been raised at all were it not for the existence of a body such as the Aboriginal Areas Protection Authority and the kinds of contact which have been facilitated between Aboriginal custodians and field officers working for the Authority, and also Aboriginal organisations such as the NLC, which has organised a number of land claims in the area on behalf of Aboriginal claimants (who also comprise the senior custodians of sites in the area).⁶³ In other words, the existence of sympathetic organisations and individuals charged with protecting and facilitating cultural attachment to land has been central to the process of Aboriginal custodians revealing cultural information previously withheld from whites.⁶⁴

The importance of context and process

A second set of issues relates to the role of the contextual background in the emergence of site concerns. The raising of concern about past gravel extraction, for example, occurred as a result of an extended five year program of major highway upgrading works which the Department of Transport and Works initiated in the early 1990s. The fact that a primary emphasis of the *Sacred Sites Act* is on pre-emptive site clearance activities, particularly for all government capital works, has been an important factor in allowing custodians to develop experience of and trust in the processes of site protection. In this respect it is no coincidence that concerns about

⁶³ But see at note 37 above in this chapter and accompanying text for comment regarding differences between 'custodians' and 'traditional owners'.

⁶⁴ Some sceptics regard this correlation as evidence that these outside influences and the benefits in land and monetary compensation which they heralded, has encouraged and pressured local Aboriginal custodians to claim significance for sites for which interest had not previously been demonstrated.

sites have predominantly occurred in relation to clearance activities and that many independently-initiated site protection requests (ie, not directly related to clearance work) from custodians have been in those areas where development activity (and hence Authority Certificate or other site clearance requests) has been most concentrated.⁶⁵

Conflicting influences on Aboriginal action

These two areas of influence - the inhibitory effects of unequal intercultural relations and the stimulatory effects of bodies which support Aboriginal cultural rights interests - are competing forces on Aboriginal action. Thus right at a time when the attitudes of local whites are hardening with scepticism and opposition as a result of the challenges to their understanding which these changes have brought, Aboriginal custodians are being encouraged by the available legislative processes to press their concerns in ways not previously experienced or envisioned by either side. It is not surprising that the process often throws up anxiety and sometimes controversy.⁶⁶

9.8. Conclusion

Making a decision to reveal knowledge about a cultural site carries with it an expectation (or at least the reasonable hope) that the cultural importance of the matter and the 'interactional' significance of the action will be correspondingly recognised.

⁶⁵ An implication here is that through such activities custodians have established relationships of trust with AAPA field officers – an important 'interactional' consideration in deciding to register sites.

⁶⁶ This underscores the need for affirmative education programs dealing with the circumstances and nature of concerns being raised by custodians.

Such understanding is implicit in the relatively few instances I have recorded of Aboriginal custodians revealing information about sacred sites to local whites. However, in the *Sacred Sites Act's* addressing of this important moment of intercultural recognition and exchange, the vulnerability (from an Aboriginal perspective of intercultural power relations) and sense of anticipated reciprocity inherent in the gesture of disclosure is somewhat lost, replaced by a pragmatic requirement for Aboriginal custodians to divulge certain information relating to the site in order for the protective powers of the Act to be invoked. This essentially compulsory rather than voluntary requirement on custodians in relation to the registration of sites, it could be argued, is perhaps balanced by the corresponding requirement for non-Indigenous land users to obtain work program clearances in relation to registered sites. However, as we have seen, only a fraction of the entire corpus of sites are or are likely to become registered, meaning that the non-compulsory nature of obtaining work program clearances represents a calculated decision by government to countenance a continuing level of collateral damage to Indigenous heritage.

Other aspects of the Act are also of concern. For instance, in its drafting and subsequent operation to date most emphasis has been on sacred site avoidance surveys for development proposals and specific sacred site protection requests while issues associated with access to sites by Aboriginal custodians and the carrying out of associated traditional practices are rarely the subject of specific agreements. This in itself is a commentary on the priorities of the legislature and administrators.

Yet in reality the technical details of the Act are not in the forefront of custodians considerations and the degree to which they have used the Act is more accurately a function of the relationships of trust built up with AAPA field officers. Furthermore, the limited degree to which Aboriginal people have revealed knowledge about sites in the past and their relatively modest efforts in seeking to do so under the *Sacred Sites Act*

(most site information being provided as a result of Authority Certificate applications from non-Indigenous land users) suggests a broader basis of explanation than the structure of the Act itself and points to a continuing tentativeness and fragility of intercultural relations. In reality, access to statutory rights depends on a web of contingent factors, many of which lie outside of the immediate purview of legislation. In this and previous chapters I have attempted to identify some of these:

- the structural implications of the heritage paradigm on the approaches of governments to the protection of Indigenous cultural heritage;
- the effects of the legislative fragmentation of Indigenous rights, particularly in separating heritage protection from usufructory rights;
- the effects of the variability in the conceptual rendering of Aboriginal significance of, and responsibility for, the landscape and specific sites in it, particularly as translated into legislation;
- the effects of such different understandings in contributing to the creation of public controversy and conflict over sacred sites and development;
- the historical origins and continuing salience of Indigenous non-confrontationist strategies and the conflicts between such strategies and many aspects of legislative process;
- the overriding significance of local relations in enabling or restraining custodians with respect to articulating and acting on site concerns.

In detailing the complex circumstances of legislative policy it is easy to overlook the fact that, ultimately, the quality and nature of intercultural relations and the ability of custodians to access statutory rights are dependent on processes of face-to-face cross-cultural interaction. This and the previous chapter have demonstrated how, for Aboriginal people in the VRD, issues relating to the protection of cultural sites cannot

be separated from relations with landowners and other members of the local non-Indigenous community. This followed discussion in Chapter 6 which considered intercultural relations on pastoral leases as power relations in which cross-cultural communication processes have increasingly served as the medium through which both power and resistance are transacted. In terms of Indigenous authority structures, cross-cultural interaction is *the* salient context for mediating intercultural relations. However, for governments and non-Indigenous interests in general, the most critical contexts are one step removed, consisting of formal decision-making powers and the records and documents on which these rely. In terms of the *Sacred Sites Act* face-to-face cross-cultural interaction takes the form of meetings and consultations which inform decision-making processes under the Act.

The following chapters take up the issues of the processes of consultation which have come to structure formal relations between Aboriginal custodians and Euro-Australians. Chapter 10 provides three case studies in cross-cultural consultations drawn from the VRD. Chapter 11 then proceeds to consider more broadly the role of consultation in intercultural relations.

Plates 26 - 28



Plate 26: Custodian Laurie Roberts placing an AAPA sacred site marker beside a sacred tree on Auvergne Station. The tree is located at a popular boat launching location and is vulnerable to inadvertent damage.

Plate 27: Senior custodian Joe Long at Auvergne Station with a grinding stone which belonged to his father.

Plate 28: Civic function at Timber Creek. Aboriginal community members are mostly standing or sitting at the very back – a common experience in cross-cultural situations.

CHAPTER 10: THREE CASE STUDIES

I now consider some of the issues developed over previous chapters through more detailed examples. This chapter presents three case studies of cross-cultural meetings and consultations concerning Aboriginal heritage issues in the VRD. In two of the cases I participated in the meetings which are described here, while in the third example I was not present during the meeting, but was provided with a video recording of it and also had direct knowledge of the site and issues being discussed.

The first case study concerns a meeting between mining company executives and custodians called after the custodians discovered that in-progress exploration activities being conducted by the company were damaging an important sacred site. The second case study concerns a meeting requested by custodians with a white tourist operator who was unwittingly taking tourists to a location which is a sacred site, having failed to check with custodians of the area whether the location was significant. They regarded his use of the island as contrary to Aboriginal tradition relating to the site. In this instance custodians were aware of their rights under the *Sacred Sites Act* to prevent such misuse and decided to register the site and call him to a meeting to discuss the issue. The tourist operator was thus compelled to attend the meeting if he wished to have any chance of continuing to use the island as part of his tour. The third case study concerns an onsite consultation meeting called by the Parks and Wildlife Commission of the Northern Territory to seek approval from custodians for the construction of a ranger's residence. In this instance it was the custodians who were compelled to attend if they wished to ensure that the location of the residence was culturally appropriate. In the event, the location was culturally inappropriate and the case study involves analysis of how the Commission failed to understand or elicit the concerns of custodians and instead received gratuitous approval for their plans.

10.1. Case Study 1: ‘Helicopter man’

An important observation which can be drawn from the past two chapters is that whites are often oblivious to the effects of their own actions and behaviour on Aboriginal people they interact with. A further example concerns a meeting which occurred in 1993 between mining company executives and Aboriginal custodians after exploration activity being conducted by the company was found to be damaging a sacred site in the Victoria River. Fortuitously, on the day after the works were discovered in progress,¹ some of the company’s executives had arrived to inspect the exploration site and so it was possible to organise a meeting with them that same afternoon. The executives arrived at the meeting (at the local Aboriginal resource centre in Timber Creek) in a black Jet Ranger helicopter which landed beside the centre’s main office where the meeting was to occur. Their demeanor signalled annoyance and the senior spokesperson conducted himself in an abrupt and at times aggressive manner. The custodians positioned themselves in the furthest margins of the room and observed the proceedings,² having asked me beforehand to do the talking with the executives. While to some degree asking me to do so related to their sense of limited facility in English, it is also a common Aboriginal strategy to install an intermediary (white or black) in situations where unfamiliar whites have to be encountered. There were also technical functions related to the *Sacred Sites Act* which I was obliged to perform. Firstly I had to formally advise the executives of legally relevant issues: that custodians had advised that the area was a sacred site and that the works were inappropriate and should be halted immediately; that the company had no approval under the Act to

¹ The circumstances of the discovery and custodians’ reaction are instructive. Custodians of the area heard about work occurring along the river and went to check its location. At the time the custodians viewed from a distance but did not approach the exploration camp and returned to Timber Creek to ring me (I was at the time an AAPA field officer and had worked with them extensively) requesting that I come to Timber Creek and accompany them to confront the exploration crew. I was able to do so the following day.

² This is a common occurrence in cross-cultural situations in the VRD (see Plate 28).

conduct the works; and that, as a consequence, they were obliged to comply or leave themselves exposed to prosecution under the Act.

In such a situation it is open to the non-Indigenous party to seek clarification of the concerns of custodians and to test whether there is the possibility of negotiating the issue with them.³ However, in this instance, the company's spokesperson proceeded to vigorously contest each point put to him. In the first place he claimed that the company had all the relevant approvals, even having spoken at a ministerial level with the Northern Territory Government about the project.⁴ Secondly, he openly questioned the authenticity of the sacred site in front of the senior custodians. His argument - based on Western scientific/rationalist values - was that significant changes wrought to the site by seasonal flooding of the river over the years, for which they had evidence from aerial photography, meant that the gravel at the site was of recent origin and could not therefore be of long-term traditional significance.⁵ Having argued these points unsuccessfully, however, he eventually agreed that the works would be stopped immediately. On leaving, he shook hands with each of the custodians but completely shunned me, making no attempt to hide his hostility toward my presence.

The custodians were pleased with the outcome of the meeting, particularly that there had been such a complete capitulation by the company.⁶ The senior custodian of the

³ There is nothing to stop such consultations being undertaken independently by the non-Indigenous party, but a more common and appropriate option is to do so by applying for an Authority Certificate for the works in advance (see Chapter 9). Most mining companies undertaking similar types of exploration activity on non-Aboriginal land in the Northern Territory make such applications.

⁴ The company was based in Western Australia and had not worked previously in the NT which has much stronger Indigenous heritage protection legislation than Western Australia.

⁵ After the meeting, one of the custodians made the point to me that 'floodwater' was a Dreaming for their country and that the changes it continued to bring to the landscape and to particular sites (including washing away Dreaming trees on river and creek banks) were part of the Dreaming too.

⁶ Their sense of victory was short-lived, however, when a day later it was discovered that the company had reneged on its commitment and had not halted works. As a result the company

site was somewhat elated and referred to me as his 'lawyer' - a comment indicative of his perception of the proceedings as a legal contest between whites, notwithstanding the fact that one side was seen to be helping to defend Aboriginal law. This assessment is also supported by the fact that custodians made no attempt to have traditional information relating to the site raised during the meeting.

The failure of custodians to speak at all during the meeting was a direct result of the aggressive, uncompromising style of the company executive. His actions left no possibility of achieving relations of trust necessary to discuss traditional information and instead suggested the very real possibility that his aggression would be directed at anyone attempting to speak. In such circumstances the safest option for custodians was to let proceedings remain within a purely whitefella context.⁷ Their approach to the meeting can be contrasted with their actions earlier in the day when the exploration crew conducting the work were first approached and advised of the custodians' concerns about the site. Upon arrival at the site, the custodians stopped some distance away but within view of the mining camp, and asked me to go ahead by myself to carry out the initial confrontation about the works. However, when it appeared that discussion was proceeding amicably they approached and were soon engaging the workers with explanations of their concerns. The reaction of the crew was to listen with interest - a complete contrast to the subsequent aggressive and closed behaviour of the company executives.

was successfully prosecuted under the *Sacred Sites Act* for carrying out works on a sacred site (AAPA Annual Report 1994/95).

⁷ In this the meeting could more accurately be described as one between whites with Aboriginal people observing, rather than as a genuine cross-cultural meeting.

10.2. Case study 2: Max's Tour

Many of the issues raised above converge in the example of Max's Tours at Timber Creek. Max has been operating his popular tour at Timber Creek since 1988, but previously ran similar operations at Katherine, (300km to the east) and then Victoria River Crossing (100km east of Timber Creek). The former of these included some involvement of Aboriginal people who provided artefacts and performed corroborees for the tourists, and from whom Max acquired useful knowledge of Aboriginal stories as well as skills such as the making and playing of didgeridus, how to make and use fire-sticks and knowledge about bush tucker. He also became familiar in conversing and dealing with Aboriginal people with a limited command of standard English.

Max's tour at Timber Creek is based on the outback history of the area and is interwoven with stories and perspectives on Aboriginal culture. The tour includes visits to local historic sites and a boat cruise down the Victoria River to a small island where the tourists are treated to a display of fire-making and didgeridu playing, as well as stories of the supposed Aboriginal significance of the area - stories which he learnt while he was in Katherine and which actually relate to the Katherine area. Max also cuts and makes his own didgeridus which he sells to tourists. However, all of this is done without any involvement of local Aboriginal people.

In my own dealings with local Aboriginal custodians I became aware of their discontent regarding aspects of his tour and other activities which they had heard about. Their concerns were based on his use of Aboriginal physical and intellectual property without their agreement or involvement - the telling of Aboriginal stories, the cutting of didgeridus from areas without asking, and the fact that the island which he takes tourists to is a sacred site which is culturally unsuitable for the purpose. Despite this, it

also became apparent that the custodians were reluctant to directly approach Max over these issues, preferring to air their grievances with individuals such as myself who they knew would be sympathetic and understanding.

After some time, a senior custodian of the site decided to request that the island be registered as a sacred site and to seek to hold a meeting with Max about his tour. The AAPA advised Max about the registration and requested that he contact the Ngarinman Resource Centre⁸ in Timber Creek to organise consultations with custodians over his use of the island.⁹ Some time later, the President of the Resource Centre, Roger N., a younger custodian without seniority, approached me to complain that Max had not been honouring an agreement over his use of the island. The terms of the agreement were unclear and there was no written documentation of it.

At an impromptu meeting between the senior custodians and myself, they disclaimed any knowledge of an agreement with Max over use of the island.¹⁰ The senior landowner for the area, Peter F. put the issue with characteristic forcefulness. Stating that he didn't want Max using the island because women weren't supposed to go there he said with intended irony: 'If Max won't listen he'll have to show me 'photo' and *juju*!¹¹ - in other words, provide evidence of traditional authority which he couldn't possibly possess. I was requested to organise a meeting with Max to settle the issue. Max's reaction to this was one of considerable annoyance, claiming he already had

⁸ The name of the Centre has since been changed to the Ngaliwurru-Wuli Association.

⁹ At the time the President of the Resource Centre had requested that the AAPA refer matters about sacred sites to the Centre.

¹⁰ Their lack of knowledge was brought about by the fact that Roger N. had apparently approached Max without involving the senior custodians. His position as President of the Resource Centre owed much to the fact that he was one of the only local adult males who could read and write and was able to deal with whites, but otherwise he was neither a community nor ritual leader. He was thus a convenient 'representative' in a position which was an interface between the Aboriginal and white domains (see also Chapter 11).

¹¹ Pers. Comm., 3/5/95. 'Photo' and *juju* refer to the sacred designs and song cycles associated with the site, the right of which to use and transmit constitutes evidence of traditional ownership and authority over the site.

approval, but eventually a meeting was organised at the local Resource Centre.

The meeting followed what is a characteristic pattern in such encounters. The senior custodians and Resource Centre President, Roger N., were present. Talk amongst the senior custodians before the meeting indicated their strong resolve to stop Max using the island. Roger, who came to the meeting at the same time Max appeared (and hence missed the senior custodians' preparatory deliberations) spoke first, with a mixture of forcefulness and acquiescence which had the effect of undercutting his elders' resolve. He told Max that the island was important to them and that it might be okay if an Aboriginal person accompanied the tour but that he (Max) 'didn't keep the word' (referring to the agreement of which the senior custodians had been unaware). Max responded that an Aboriginal person could accompany them at any time, 'but I can't chase you'. The senior landowner, Peter F. then said that Aboriginal women were never allowed on the island. Max asked whether white women could go, to which Peter replied that they were the same as Aboriginal women. At this point Max conceded that he shouldn't use the island and asked about using a location along the river bank as an alternative. He said that the manager of Bradshaw had approved his use of the riverbank. Peter F., apparently to emphasise that it was he and *not* the manager of Bradshaw who held authority over such approval, stated: 'All sacred site right along the river'.¹²

Before there was a chance to explore this impasse and the alternatives it may have led to, Max upped the ante, becoming quite forceful and threatening to leave Timber Creek altogether, saying that if he did there would be no more tourists. This move was no doubt intended to indicate that blame would be sheeted onto the custodians for

¹² This is true in that a number of important Dreaming tracks follow this section of the river bed and banks.

seeking to stop needed local economic development - an implication which has an intimidatory force well understood by Aboriginal communities in the remote north of Australia. This was followed by a more measured explanation of the setting up of the tour, including an admission that he hadn't asked Aboriginal people because he didn't know about sacred sites.

His move had what may well have been the effect he intended. Clancy T., mild-mannered and accommodating, but nonetheless one of the most senior and respected custodians for the area, spoke up: 'Well, too late now - woman already gone to that place - may as well leave it' (that is, let Max continue). Roger N. then took up the theme saying that it was better if Max 'came through us'. At this point I sought to test whether the possibility of an alternative site to the island might still be negotiated. However, Peter F. closed the issue saying that Max may as well keep using Sandy Island because a jetty was already there. Roger N. then continued the flow of accommodation suggesting to Max: 'Why don't you give us food sometimes when you go - satisfy our spiritual side'.¹³ Clancy T. agreed that payment in food would be okay. This effectively cemented the outcome, which remained as a periodic payment of food to the senior custodians and an agreement that local Aboriginal people could accompany the tour at any time if they wished.

To my knowledge Max, at least for a time, complied with the agreement to provide food and this seems to have been accepted by the custodians. Another plausible perspective, however, is that the final agreement fell well short of the desired outcome of the senior custodians and that they regard what was agreed to as a kind of tactical face-saving retreat in the face of defeat. The episode certainly bears the hallmarks of

¹³ Food is one of a number of items traditionally used to 'pay' senior landowners for the use of certain areas for hunting or the collection of bush resources, or for a variety of other cultural and ritual transactions, including those related to breaches of Aboriginal Law. Money has also become a common component of such payments.

long-established patterns of intercultural relations which usually produce similarly one-sided outcomes. Part of this pattern is that rare instances of criticism of whites to their face is often accompanied by a corresponding gesture of accentuated accommodation, driven by the anxiety of confronting whites. In other words such outcomes are substantially the product of unequal power relations.

It also shows how the outcomes of cross-cultural exchanges can be radically influenced by misunderstanding (or manipulating) Aboriginal cultural modalities of communication. Thus, Peter F's statement that 'all sacred site along the river' was interpreted by Max as an unreasonable attempt to block his tour altogether rather than as a statement which sought to proclaim the broader limits of Aboriginal traditional authority within the area and issues under discussion, but which left open the possibility for further negotiation on the matter. Instead, Max's aggressive and threatening reply simply resulted in immediate Aboriginal capitulation. This was an outcome which, considering Max's previous cross-cultural experience, one suspects, he was well aware would be the likely result. If so, it could be classed as coercive - an example of what Goffman refers to as 'accentuated revealment' (see Chapter 6).

10.3. Case Study 3: Ranger's residence consultation meeting by the Parks and Wildlife Commission of the Northern Territory

Background

In 1993, in accordance with the existing management strategy for the park,¹⁴ the Parks and Wildlife Commission decided to construct a ranger's residence in the park's northeast sector. Informal consultations, conducted sporadically over the previous couple of years¹⁵, had canvassed at least three possible sites. However, with funds finally budgeted and with the previous wet season's record flood level having shown the Commission's preferred site to be vulnerable to flooding, all the previously-canvassed locations were rejected and an alternative location on a narrow ridge immediately south of the Victoria River Wayside Inn was identified as the preferred option. In selecting a location some distance from previously registered sacred sites nearby in the valley, the Commission was confident that it would be acceptable to Aboriginal custodians. Such a view was also no doubt encouraged by the existence of a fence line along the ridge and its proximity to the Wayside Inn; in other words it was convenient to assume that had it really been a site then some mention would have been made of the fact when the earlier works encroached.

Having conducted their own informal consultations with some custodians,¹⁶ the Commission applied to the AAPA for an Authority Certificate for the works.

¹⁴ There was no formalised Plan of Management for the park at this time.

¹⁵ Development of Gregory and other Northern Territory-managed parks has suffered from inadequate funding levels, and as a consequence, construction of park infrastructure has been subject to frequent delays resulting in protracted and disjointed consultation processes with Aboriginal custodians.

¹⁶ I do not know the details of these consultations.

Consultations were carried out by the AAPA with both Wardaman and Ngaliwurru custodians, revealing that the ridge was in fact a sacred site closely related to the nearby previously registered sites and of particular significance in local men's religious tradition. Senior custodians informed the AAPA that the location was unsuitable for the proposed residence. On the basis of their advice, the AAPA declined to issue an Authority Certificate to the Commission, instead suggesting that alternative sites be considered.

The Commission's response was to organise its own further meeting with custodians which was clearly designed to undermine the basis of the Authority's refusal to issue an Authority Certificate. Having initially advised the AAPA of their intention to take custodians to investigate alternative sites, the Commission instead sent officers from the regional Katherine office and took custodians back to the rejected site to re-discuss the issue. Custodians themselves told me afterwards that they had also been told they were to be visiting alternative locations and were surprised to be taken back to the rejected location. At the meeting the Commission contrived to video-record custodians agreeing to the location of the house on the site and then, with the video as evidence, wrote to the AAPA seeking a reversal of its decision.

Analysis of the consultation meeting¹⁷

Firstly a comment about the circumstances of the meeting. There are a number of grounds for custodians to have felt from the outset pressure to accede to the Commission's agenda for the meeting. Prior to the meeting custodians believed they

¹⁷ A transcript of the meeting is included as Appendix A. In the discussion below, numbers in brackets (*) refer to paragraph numbers of the transcript.

were going to visit alternative locations. The Commission had itself told custodians that this was the intention of the trip.¹⁸ Therefore, the last minute change of plan to take custodians to the rejected site in order to ask them to reconsider their decision would have indicated, at the very least, that the Commission either misunderstood or did not respect the Aboriginal law basis of their original decision and were determined to press for approval from the custodians regardless. Such a conclusion would have been reinforced by the fact that the AAPA was not present at the meeting. Their previous experience of situations involving a proponent's wish to have a rejected application reconsidered was that the AAPA was always involved in convening and participating in subsequent meetings. The absence of the AAPA clearly sparked concern, leading MC1 to ask the Commission representatives for clarification about the advice they had received from the AAPA (19).¹⁹ In addition, the videoing of the meeting would also have aroused concern, as consultations over site clearances are not normally videoed and the custodians involved well understand the evidentiary implications of video recordings.²⁰

In addition to such processual flaws of the meeting was the situation of its glaring cultural inappropriateness. The inclusion of female custodians in the meeting when the major basis of concern relating to the site related to gender restricted men's business meant that these issues could not be raised by the male custodians present.

Notwithstanding this crucial handicap, MC1 (the most senior male custodian present)

¹⁸ A Commission staff member had also advised me the day before that this was the purpose of the consultations. Following the meeting the same person told me that the change in plan had been ordered by the Commission's central administration in Darwin (fieldnotes of the author).

¹⁹ MC1 also advised me following the meeting of his action in querying Commission representatives about the advice they had received from the AAPA (pers comm). It should be noted that this was done not through a direct request for the content of what was received, but rather only whether anything had been received.

²⁰ For instance, these custodians have been involved in producing videotaped evidence for land claim hearings.

attempted without success to flag the seriousness of the cultural concerns relating to the site. First he asked for clarification that the Commission had received advice from the AAPA (19). Then, when R1 broadly outlined the AAPA's advice that the ridge was a sacred site, MC1 confirmed the information for them (22) and then emphasised his concern: 'but I mean it's the site - that's what I'm worried about' (24). Finally, with no positive response from the Commission representatives, MC1 responded to R2's defence of the Commission's original assumption that the ridge was not a sacred site and their subsequent response upon being so advised to 'find a bit of middle ground', by explaining that the 'site goes right into...where the pub is anyway' (33). In doing so MC1 challenged the notion of the appropriateness of development anywhere in the vicinity, bringing up an often voiced criticism that the Wayside Inn itself, because of the totemic significance of the area, is inappropriately located. It is well known that the bore water used by the Inn is salty - a consequence, custodians have explained, of the fact that it is the *kumpu* (urine) of another important Dreaming associated with the nearby vicinity. In the transcript MC1 uses this explanation to challenge the Commission representatives as to how they could obtain 'fresh' water (ie untainted by the Picaninnis' urine) - 'where you going to get it fresh water eh?' (35). After again getting no positive response MC1 finally reiterates that the water is 'no good'²¹ before finally changing tack towards acceding to the undeflected agenda of the Commission.

The above highlights a commonplace scenario of Aboriginal acquiescence in the face of inept and culturally insensitive 'consultations' by Euro-Australian interests. The very fact that the Commission intended that the video would be irrefutable evidence of the custodians' approval highlights the extent of their inability to understand the cultural complexities with which they were dealing. Instead, the video records the errors of process and communication which induced the senior custodian's capitulation. Equally

²¹ In this context the expression refers to the spiritual properties of the water, not its potability.

disturbing is the fact that viewers lacking a detailed background understanding would be likely to conclude that it shows the genuine support of custodians for construction of the house on the site.

A further inadequacy of the consultations was the lack of time given - ie the Commission shows no understanding that the reversal of such a decision, assuming this was possible, was likely to require further time for internal Aboriginal processes to achieve an agreed consensus. In the circumstances it was apparent that the senior male custodian did not even have an opportunity to alert the less-knowledgeable female custodians of the cultural implications of the location.²² However, the Commission clearly expected custodians to change their mind on the spot.

In light of such deficiencies, MC1 obviously didn't regard his own gratuitous approval offered subsequently (47 and 56) to be binding. In fact, immediately after the meeting he actively sought me out to report what had happened and to confirm that he still opposed the house being built on the site.

Another disturbing feature of the transcript is the lack of frankness by Commission staff about the circumstances and intent of the meeting. I have already commented about the Commission's exclusion of the AAPA from proceedings and the concerns this raised in the mind of the senior custodian present. But it is also apparent that custodians were given false information about alternative locations. At a number of points Commission representatives indicate that there was no other suitable location available (3-8) - a fact which is untrue,²³ but nevertheless had the effect of putting the

²² I was made aware by MC1 that the female custodians involved in the meeting did not know about the cultural significance of the site and it is possible that this information may not have been available to women at all in traditional circumstances.

²³ For example, the alternative sites previously canvassed by the Commission had at the time been presented by them as practicable options.

custodians in a position where their rejection of the site would have been seen as blocking essential management infrastructure for the park (for example, see 11-17, where R2 outlines the management functions of the proposed residence). Another problematic feature of the Commission's approach is their questionable sincerity in seeking the 'help' of custodians to find an appropriate location (eg, 3: 'what we want to do is find some high ground where we can build a house where it's alright with you people'), when most other aspects of the meeting communicate an entirely different intention. This is not just playing for the camera, but is an example of a common strategy of whites to clothe a pre-determined agenda in more culturally-sensitive rhetoric. Custodians are also well used to such disingenuousness and readily perceive the real intention of whites, characteristically delivered in such a way as to communicate a sub-text of implicit prejudices about Aboriginal behaviour. From a cross-cultural perspective, much that could be regarded as 'framing information' communicated by whites is in fact a less conspicuous form of the coercive exchange which Goffman talks of. Thus when the R2 talks about custodians having 'changed' information regarding the significance and extent of the site, this connects, particularly in view of the timing of the change *after* the Commission declared its interest in the new site, with a discourse well-known to custodians - a discourse that deals with accusations that Aboriginal people, either on their own or in response to manipulation by unscrupulous whites, make up sacred sites to block development (see, for example, Liberman 1985:250).²⁴

The Commission's actions in relation to the ranger's house consultations recalls Scott's caution, referred to in an earlier chapter, that 'any analysis based exclusively on the public transcript is likely to conclude that subordinate groups endorse the terms of their

²⁴ Lloyd Fogarty told me: '[there's] vast areas of country where no one ever goes – there's [no sacred sites] there. But when there's a bit of activity in the area they seem to decide there's a sacred site there' (interview with Lloyd Fogarty, 1995).

subordination and are willing, even enthusiastic, partners in that subordination'. However, the example also shows that the public transcript contained evidence if they cared to look hard enough. Instead, they accepted gratuitous responses as if they were unproblematic. The transcript is punctuated by frequent such responses to statements by Commission staff, particularly from FC1 (2, 4, 6, 12, 14, 16, 44, 46, 48, 50, 52), and also from MC1 after his attempt to raise concern about the site to the Commission staff was unsuccessful (47, 56).

As an indication of the Commission's policy toward Aboriginal interests in Gregory, its actions over the issue are deeply disturbing. The covert agenda and conduct of the meeting reveals a somewhat paranoid mistrust of the AAPA and a compromised relationship with local Aboriginal custodians. This action in fact mirrors similar occurrences in other parks, most notably Keep River National Park, where the rejection of an Authority Certificate for a Commission campground brought public intervention from the Minister for Conservation.²⁵

Interestingly, the Commission appears unaware of the effect of its cross-cultural practices on its ongoing relationship with Aboriginal traditional owners. As a result there is little trust of the Commission.²⁶ The example given (at note 25, Chapter 2), of one of the traditional owners of Auvergne Station expressing a greater trust in the white station manager over the Commission to look after his traditional country, is

²⁵ In that instance, the Commission also produced a similar video of custodians agreeing to the rejected proposal, which they used to convince the Commission Board and the Minister to take further public action (see 'Site claim closes campground', *Northern Territory News*, June 25 1991).

²⁶ In making such an observation I also must acknowledge that some individual Commission rangers have established excellent relations with local Aboriginal people and are highly regarded.

indicative of a more widespread lack of trust.²⁷ Custodians and the manager of Auvergne also agreed to support each other in opposing the Commission's proposal to establish a public boat ramp for the Victoria River within the station and close to the area, referred to in Case Study 1, which was damaged by mining exploration works.

This chapter has provided some indication of the dynamics of cross-cultural meetings and consultations, and the implications of such interactions on intercultural relations. I now turn to consider the broader position of 'consultation' in mediating intercultural relations and to briefly examine some of the underlying assumptions on which consultation processes are based.

²⁷ Pers. comm. 1994. This was after some eight years' experience of the Commission as the managers of Gregory National Park, which includes a significant portion of his traditional country. Auvergne borders the park.

CHAPTER 11: THE ROLE OF CONSULTATION IN INTER-CULTURAL RELATIONS

11.1. The role of consultation in intercultural relations

As we have seen, with the shift from ration-based 'station blacks' camps to independent, cash-based communities with increased citizenship rights for its members, the nature of the administrative responsibilities of governments towards Aboriginal people changed. Policies based on self-determination and the provision of land, mostly on the basis of demonstrated traditional attachment, have directed administrative attention towards the need for appropriate consultation with Aboriginal communities. Consultation has become a central process of the rational administration of Indigenous affairs. However, in contrast to the situation in mainstream urban centres, most aspects of Aboriginal community servicing in the VRD involves some level of face-to-face meetings with individuals or groups in the form of consultations. Increasingly, consultation processes have come to structure and legitimate relations at the local, governmental and commercial levels. Edmunds makes the point that the diffuse and ad hoc nature of much consultation in the Roebourne area of northwest Western Australia has placed undue pressure on the Aboriginal community, particularly through meetings 'called to decide an extraordinary range of issues, whether trivial or important, or whether concerned with real community issues or with issues like garbage collection that should be taken for granted in any Australian community' (Edmunds 1989:166). Those who have had close contact with Aboriginal communities over time will have witnessed the results of such pressure in the phenomenon of meeting overload ('too many meetings!'), which particularly affects community leaders and other key community members who are constantly called upon to make themselves available for a myriad of meetings and consultations.

While this is undoubtedly a serious problem, it seems to me that we need be concerned with more than just the impacts on Aboriginal communities caused by the excessive and ad hoc use of consultation processes, and recognise that consultations are comprised of interactions which are themselves a considerable source of intercultural misunderstanding and tension as well as being a vehicle for the expression and maintenance of entrenched power inequalities. In truth, neither concern is part of the general understanding of the non-Indigenous community, which sees the adoption of policies of consultation as establishing an unproblematic basis for mediating cultural relations and facilitating the policies and development agendas of governments and commercial interests. But the fact remains that many consultations result in outcomes which are unwanted or inadequately understood by Aboriginal participants. This chapter examines the processual and structural nature of consultation and considers some of the implications for Aboriginal people in the VRD.

11.2. The act of consultation

In the VRD consultations address a wide range of issues affecting Aboriginal community interests: government policy formation, formalised agreements with government and commercial interests, compliance with legislative requirements, community servicing needs, impact assessment studies as well as various aspects of social/cultural/environmental research, etc. On non-Indigenous owned land in the VRD the scope of consultations is generally restricted to issues associated with heritage protection, Indigenous involvement in the management of national parks such as Gregory National Park, and the impact of developments on Aboriginal communities and cultural heritage. Some consultations occur as part of normal planning processes but many are carried out as a last-minute consideration, sometimes during the construction or implementation phase of projects.

But what does the act of consultation really mean in each of these circumstances?, and what do these practices say about the nature of the intercultural relations themselves? For example, the legislative requirement in the *Sacred Sites Act* to consult with the custodians of sacred sites has been codified into a particular set of consultation practices which inform the ultimate decision-making body, the Board of the AAPA. While this model is regarded as 'best practice' in the Australian context (Evatt 1996), there remain concerns about some aspects of the Act, including the potential for errors in consultations to occur (see Chapter 9). This potential is arguably greater with respect to the consultation practices of most other Euro-Australian bodies, which mostly lack the structure, resources and expertise to effectively consult with Indigenous people. At stake is the procedural fairness of particular consultation processes and the meeting of Australia's international obligations with respect to the protection of Indigenous cultural rights, for it is clear that flawed consultation processes can severely discriminate against and prejudice Indigenous cultural and material interests. Often, the outcomes of consultations bring into question the appropriateness of the processes which Aboriginal people are subjected to by governments, commercial interests and even Aboriginal service organisations.

The primacy of written records

A significant and often overlooked aspect of consultation processes is that it is the *results* of consultation (ie as field notes, written reports, plans, agreements etc) which constitute the objects which, from a non-Indigenous perspective, legitimate subsequent action - in effect displacing the direct face-to-face process of consultation itself as the primary source of information on which decision-making is based. Given the primacy of spoken communication for Aboriginal people (Eades 1982:100), many of whom in the VRD are illiterate or semi-literate and therefore unable to adequately peruse or

assimilate written documentation, such a system places Aboriginal people in a position of relative disadvantage. An associated problem of this structure of decision-making is that, in relying on a summarised or selective record of the actual consultations, it risks overlooking instances of miscommunication which may have occurred during consultations. In addition, inaccuracies may also be enshrined in the written record which could later be regarded as an authoritative basis for rebutting any subsequent disagreement raised by Aboriginal consultees about the official outcome of the decision-making process.¹ It needs to be noted that Aboriginal people rarely have the opportunity to see or be advised of the documentary results of consultations. In most dealings relating to sites or land, VRD Aboriginal people have the assistance of Indigenous organisations, such as the NLC and the Ngaliwurru-Wuli Association. But this does not entirely remove the potential for error, miscommunication or conflicts of interest to occur. The AAPA, as we have seen, provides experienced field staff to carry out consultations over proposed works, to document cultural concerns and to assist in meetings with white landowners and works proponents, but again, occasionally errors and disputes occur. However, many non-formal and some formal consultations occur without any such informed assistance, increasing greatly the potential for outcomes prejudicial to the interests of Aboriginal participants.

Consultation, negotiation and rights of refusal and dissent

Processes of consultation and negotiation vary considerably in the degree to which rights of refusal or dissent (consent rights) are conferred on the party being consulted. Against the criteria of consent, the use of terms such as 'consultation' or 'negotiation'

¹ In some situations consultations are recorded on audio tape or video, and while these methods provide a far more detailed record than written notes, they may also influence the responses of Aboriginal people and hence any consequent outcome. The permanent recording of information in this way has further implications, discussed below.

can be misleading. For instance, the Macquarie Dictionary defines consult as '1. to seek counsel from; ask advice of. 2. to refer to for information. 3. to have regard for (a persons interest, convenience etc) in making plans'. Under these definitions, therefore, the consultor is not compelled to take heed of the advice, information, interest or convenience of the consultee - in fact, no effective power is conferred on the consultee whatsoever. Many consultations with Aboriginal people, particularly those conducted outside of statutory frameworks, fall into this category (see for example, Coombs et al 1989:132). The main exceptions are where specific rights and processes are codified in legislation, such as exists in some sections of the *Land Rights Act*, the *Sacred Sites Act*, and the *Native Title Act*, or in commercial or other contractual agreements. For instance, in the *Sacred Sites Act* consultation rights afforded Aboriginal custodians include the power to refuse permission for activities which could result in the damage or inappropriate use of sacred sites (see Chapter 9). On the other hand, limits to the ability of custodians to prevent unwanted damage to areas of cultural significance under the *Sacred Sites Act* can be seen in the case of a sacred site within the proposed Jabiluka minesite in Kakadu National Park, where the AAPA declined to register a site because of 'considerable disagreement' amongst custodians regarding the extent of the site (Australia 1999a:172-3).

Besides instances of legislative codification there is also a body of Australian case law, mostly relating to urban planning issues, on the meaning of 'consultation' in legislation.² The effect of this body of law has been summarised as establishing an obligation to give an adequate description of a proposed act to enable the consultation to take place; to respond to legitimate questions about the proposed act; and to give a

² For example, *Leichhardt Municipal Council v Minister for Planning* (1992) 78 LGERA 306; *Darling Casino Ltd v Minister for Planning* (1995) 86 LGERA 186 [drawing] on older English authorities (such as *Rollo v Minister of Town and Country Planning* [1948] 1 All ER 13; *Re Union of the Benefices of Whippingham and East Cowes, St James*; *Derham v Church Commissioners* [1954] AC 245; *Port Louis Corporation v Attorney-General of Mauritius* [1965] AC 1111 (ATSIC 1999).

reasonable time to respond to the invitation to be consulted (ATSIC 1999:4).

Indigenous participation rights have also been articulated in international law. For example, the CERD Committee, in its General Recommendation XXIII on Indigenous peoples called on States parties to (among other things):

ensure that members of Indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.

Noting similar statements by the UN Human Rights Committee regarding effective participation of Indigenous peoples, a recent submission to a CERD Committee hearing commented

...that this developing focus on internal self-determination and political participation rights is extremely significant. It represents a sophisticated negotiation between issues of State sovereignty and substantive equality for Indigenous peoples. In doing so, it mirrors more general jurisprudential developments in international human rights law that have moved on from treating the State as the sole subject of international law and provided avenues for individuals and groups to assert their human rights. (Australians for Native Title and Reconciliation 1999:10).

The subject of the CERD hearing in question was the discriminatory nature of the 1998 *Native Title Act* amendments of the Howard Government and the lack of consultation with Indigenous leaderships. At the time of writing, a Parliamentary Committee inquiring into a review of the *Land Rights Act*, has recommended that the Act not be amended without the informed consent of Aboriginal traditional owners in the Northern Territory (Australia 1999b: xvii). Thus, the current Australian Government is experiencing pressure both internationally and domestically to seek negotiated outcomes with Indigenous communities.

To put the current Government's actions in some context here, it should be

remembered that the 1993 *Native Title Act*, passed by the Keating Labor Government, was no great victory for Indigenous Australians. For instance, a recent comparison of the 1976 *Land Rights Act* and the 1993 *Native Title Act* found that the latter represented a 'dilution of mechanisms recognising cultural difference' and a 'reduced level of power or self-determination to Aboriginal people', particularly evident in the lack of any veto power over mining or exploration on native title land (Sexton 1996:17). It should be remembered here that the 1998 amendments have further reduced the level of rights of native title holders under the Act. But at least the Keating Government brought the Indigenous leaderships to the table and negotiated the content of the 1993 Act with them. It remains to be seen whether foreshadowed amendments of the *Land Rights Act* and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* continue the trend towards winding back Indigenous statutory rights, or perhaps begin to heed the mounting concerns about the lack of participation rights of affected Indigenous groups.

Inevitably, the outcomes of debate about legislation at the national or international levels must be mediated at the local level. In this thesis I have argued that too much focus on the drafting and Parliamentary passage of legislation results in failure to consider the degree to which there is significant slippage between the theoretical rights established in legislation and the actual rights which Indigenous people come to enjoy on the ground. The thesis has pointed to many instances, both within the operation of the *Sacred Sites Act* and involving other bodies or outside interests, where consultation outcomes have been less than favourable for the Indigenous participants, *despite technically possessing rights which would allow them to prevent such outcomes*. Clearly, other forces are at play in such situations. Chapter 6 canvassed the roles of power and cultural difference in such unequal cross-cultural interactions and it is now apposite to apply this understanding to consultation contexts.

11.3. Cultural, interactional and processual influences on Aboriginal responses to consultations

Addressing 'gratuitous concurrence'

A significant point of slippage between legislation and outcomes on the ground concerns the ability of custodians to access and exercise rights of refusal and dissent. In intercultural contexts such as those in the VRD where saying 'yes' to whites has been a strategy of survival, rights of refusal and dissent concerning actions which may affect Indigenous cultural interests are foremost a function of the awareness of the consultees that such rights exist, together with their willingness, confidence and ability to exercise such rights in intercultural settings. Equally important is the ability of consultors to perceive the underlying basis of Aboriginal responses - to penetrate the hidden transcript of those they are consulting. In practice, Aboriginal people in the VRD are more likely to be guided in their responses by the perceived power and authority of the non-Indigenous participants, and by contextual cues, including such things as their demeanor and body language or the spatial arrangement of a meeting. In such situations assurances regarding Aboriginal decision-making rights communicated during the course of an encounter may not result in such rights being fully exercised. This thesis has provided considerable evidence of cultural, strategic and power-related influences on the responses of Aboriginal people in cross-cultural contexts, and a corresponding failure of whites to correctly analyse such dynamics. This often results in the effective abrogation of the legal and ethical obligations of the consultor. Too often the focus of whites is only on the practical outcome they are seeking - a condition which Aboriginal people readily perceive (or assume through experience), and often respond to by acquiescing to the perceived desires of whites or by offering vague or indeterminate responses where there is concern or confusion. In such situations

'consultation' fails to elicit the full measure of the desires and concerns of the consultees regarding the matters under discussion, while at the same time delivering the outcomes desired by the white consultor. Moreover, whites are often left with the erroneous perception that the consultation was unproblematic. For example, to an inexperienced observer, the consultations detailed in the three case studies in the previous chapter, would have seemed to have provided reasonable opportunity for Aboriginal people to respond and state the case for their concerns. However, the reality was that in each case, to differing degrees, they did not.

Putting aside the issue of statutory safeguards offered by the *Sacred Sites Act*, these examples and many others besides, indicate 'the ease with which Aboriginal groups can be approached for compliance in any matter of importance to Europeans and the difficulty of adequate consultation' (Sullivan 1996:38-39. See also Liberman 1985:217). While many actions by whites may be unwitting, some intercultural strategies are questionable in the manner by which consent or approval is sought. Unscrupulous whites sometimes deliberately manipulate intercultural contexts, knowing that certain behavioural approaches and demeanors will produce the desired response from Aboriginal custodians. In other situations, such as Case Study 3, the erroneous belief that Aboriginal heritage bodies are somehow involved in manipulating consultation processes to 'block' developments creates a reactive response which may in itself be inappropriate and manipulatory.

Many consultations involve relatively brief one-off or intermittent encounters – a roads contractor asking about a proposed gravel location; a pastoralist asking about a new fenceline; an AAPA officer undertaking a work area clearance for minor construction works, etc, and usually avoid the necessity and complication of establishing ongoing relations. However, non-Indigenous individuals, companies or organisations embarking on long term projects, such as mining ventures, or the management of national parks,

may create more complex dilemmas for Aboriginal people who choose or are required to establish cooperative relations with them. In the VRD, for instance, the tension between the Parks and Wildlife Commission and the AAPA, as illustrated by the Commission's actions detailed in Case Study 3, has created contradictory pressures on custodians, who are generally acutely aware of intra-Euro-Australian tensions, yet find it in their interests to maintain positive relations with both sides. A body such as the Commission, for instance, can exert unwitting coercive pressure on custodians to acquiesce to its plans because of its potential as a source of employment or other benefits, such as assistance with outstations - benefits which Aboriginal people in chronically difficult economic circumstances are loathe to jeopardise. Dixon noted such a dynamic operating during the establishment of the Argyle diamond mine near Turkey Creek (southwest of Timber Creek):

Aborigines from Turkey Creek, Kununurra and other settlements in the region were engaged in a series of actions designed to maximally benefit from a new and powerful patron in the mining company while, at the same time, seeking to maintain the services and support of community workers and agencies generally opposed to the modus operandi of the mining company (Dixon 1990, quoted in Sullivan 1996:39).

These kinds of complex, contradictory pressures may result in situations where custodians give different accounts to opposing stakeholders as a means of maintaining desired relations with each side or of avoiding unwanted consequences such as having to say 'no' and thereby inviting further attempts by whites to press for their agreement. Such situations, as shown in Chapter 8, have contributed to the scepticism of many whites about sacred site concerns.

Leaders, bosses and Indigenous authority structures

Negotiating and where possible, creatively exploiting the difficult terrain of internal non-

Indigenous politics in the course of cross-cultural interactions involves strategies which, as we have seen, are part of a broader approach to intercultural relations originating in the earliest phases of contact between the two cultures. A problematic aspect of the relationship, though one equally subject to creative exploitation, has been the European obsession with seeking out leaders – ‘chiefs’, ‘headmen’ etc - with whom to negotiate or consult. In fact, despite the increasing legal and practical requirements for consultation with Aboriginal communities over a myriad of issues (and in some cases *because* of such requirements), the existence and role of leaders in Indigenous governance and decision-making structures is one which in many respects remains a most thorny and intractable issue (see, for example, Hiatt 1988, Anderson 1988).

Legislative approaches, as we have seen, have resulted in confusing fragmentation. Heritage law has adopted the generic Euro-Australian construct of the ‘custodians’ (‘custodian’ being defined in the *Sacred Sites Act* as ‘an Aboriginal who, by Aboriginal tradition, has responsibility for that site’) as the appropriate Indigenous authority structure. ‘Custodian’ joins other Euro-Australian legislative and juridical constructs of Aboriginal landowning entities: the categories of ‘traditional owner’ defined under the *Land Rights Act*, and that of ‘native title holder’ defined under the *Native Title Act*. These terms define separate but overlapping formulations of Indigenous rights according to the particular focus of each piece of legislation.³ Moreover, the different formulations may be applied over the same area of land. This means that an Indigenous person can simultaneously be custodian, traditional owner and native title holder of the same site or area of land. A concern here is the fact that the statutory determination of these categories results in different but overlapping memberships which may be contrary to Aboriginal customary law, and which may potentially place

³ For discussion of the nature and implications of these different formulations see, for example, Rumsey 1996; Merlan 1994b; Sutton 1999; CLC 1998; NLC 1998.

individuals in conflict with each other as a result of their differing rights and statutory interests to a particular site or area of land.⁴

It is of little surprise then, that the identification of custodians, traditional owners and native title holders presents complex and sometimes vexed legal, cultural and processual issues. Although each is subject to statutory processes of determination, criticism (and intervention) sometimes comes from sections of government and special interest groups concerning who should be so recognised; or from Indigenous people themselves aggrieved because they have not been identified or sufficiently recognised by statutory processes.⁵ The latter can result from narrow or inadequate legislative definitions or because there is insufficient documentable corroboration. Conflict can also arise in situations where there may be a dispute about traditional responsibility for a site or area of land. The fact that substantial rights and benefits may be at stake (for example, through potential royalties from resource exploitation or in establishing access to government funds for community infrastructure) increases the potential for such types of conflict, or for individuals to seek to establish control over the distribution of such resources (Gerritson 1982).

At the local level these issues tend to become conflated, particularly where there are disputes or disagreements within Aboriginal communities which spill out into non-Indigenous processes and politics. In worst cases this can result in the polarisation of Aboriginal communities, sometimes encouraged by non-Indigenous interests which align themselves to one side or the other. For example, in relation to Keep River

⁴ CLC 1998; NLC 1998.

⁵ For instance, such criticisms have been made in relation to Coronation Hill (Merlan 1991b) and Hindmarsh Island (Brunton 1996). The Lake Amadeus Land Claim in the Northern Territory resulted in action by aggrieved Aboriginal claimants against the Minister's findings in relation to traditional ownership (see *Pareroultja v Tickner* (1993) 117 ALR. See also NTAC 1998b. For an example from the VRD, see *Northern Territory News*, June 25 1991 ('Site claim closes campground').

National Park I became aware of an incident in which the Commission located a claimant family who had been living away from the area in Alice Springs for many years. These individuals had not been identified or included in consultations by the NLC over the park because the locally-based traditional owners of the area had not identified them to the Land Council. The Commission subsequently brought them to the park to challenge the position of the group of traditional owners identified by the NLC and with whom the Commission was having difficulties over excision and infrastructure issues. This type of situation in which conflict within traditional groups is contrived or encouraged by outside agencies is relatively common with sacred sites and resource development controversies.⁶

In many instances sheer ignorance and expediency are the main causes of inadequate consultations. For instance, where non-Indigenous landowners and land users require decisions or approvals and seek to do so outside of heritage legislation frameworks, there are common pitfalls awaiting them. One of these is to approach prominent individuals (either self-nominated or nominated by other members of the community) and to assume that they either hold the requisite authority or else will act as brokers in securing consent from those who do. The difficulties surrounding such assumptions have both historical and more recent dimensions. Historically, Aboriginal groups have sought to deal with Europeans, not necessarily through the most senior, authoritative individuals (who often lacked a facility with English), but by putting forward younger, more cross-culturally confident individuals who usually spoke better English and who could work for Europeans and establish relationships with them, but who were ultimately under the control of their elders (see for example, Anderson 1983). On

⁶ For example, the mining company which wanted to develop Coronation Hill facilitated division within the Jawoyn community by supporting and facilitating Jawoyn people who had taken jobs with the company and who supported mining, to speak out against the traditional concerns of the senior custodians of the site who opposed the mine (see, for example front page article in the *Katherine Times*, 12 July 1990).

Auvergne, during the post-war period, Lloyd Fogarty remembers Bobby Wititjpuru being a 'spokesperson for the area', although it was Bobby's elders (who were already old men when Lloyd arrived) who really 'called the tune'.⁷ This intercultural strategy has a contemporary manifestation in the use of 'representatives', which Sullivan notes, 'is a task frequently delegated to one person who can speak forcibly and with a willingness to travel' (Sullivan 1996:37). Representatives are encountered in a variety of contexts in communities, local Aboriginal organisations and in different meeting and consultation situations. Local whites will also often direct non-Indigenous outsiders to those who they assume are in leadership positions.

Importantly, as Sullivan points out, a representative's authority is qualified and can therefore be disavowed on various grounds:

- *community members' right to disavow anything said on their behalf.*
- *He/she cannot speak for the opposite gender.*
- *He is not a law man (ie active in ritual).*
- *He cannot read/write/speak English well.*
- *His right to the tract of country he speaks for is questionable. It may be a maternal right, only an association by birth-place, or it may be thoroughly in accord with traditional practice yet without possession of commensurate knowledge.*
- *His relationship to others in the group is too remote to qualify as their own representative.*
- *He is not qualified to speak on the subject under discussion; this is someone else's prerogative. (Sullivan 1996:37-8)*

While the use of such 'disclaimers' is indicative of 'a fundamental cultural view that Aboriginal persons can speak only for themselves' (Eades 1991:89. See also von Sturmer 1981), it also provides an important buffer against intercultural effects, for instance, in countering non-Indigenous ignorance, ineptitude or attempted

⁷ Interview with Lloyd Fogarty, 1995. This pattern is mirrored in my own experiences on Auvergne, where Bobby's son, Laurie, carries out much of the liaison with whites, while involving or seeking guidance from his father and other elders according to the needs of the situation.

manipulation, or to control the potential for representatives to exercise power and influence beyond their traditional or community status. As with the situation on pastoral leases in the past, with the opportunities for patronage by whites and the resulting control of the material benefits which flow from such relations, is the opportunity to inflate one's status and become what Gerritson (1982) terms 'dominant men'.

Another common error is to consider that Aboriginal councils and community organisations represent the community in all matters. In Case Study 2, for example, the mining company concerned had initially contacted the local Aboriginal Resource Centre about their proposed exploration program and to hire the Centre's backhoe, which was subsequently delivered to the exploration site. It was on this basis that the company assumed it had approval from custodians of the area. The problem was that the Resource Centre had no resources or expertise for undertaking sacred site surveys (this being a task that the Centre's personnel would have assumed had been carried out by the AAPA), and the President of the Centre was a ritually junior male who did not know that the exploration location was a sacred site.⁸

The above discussion demonstrates how the concurrent existence of individuals who exercise leadership and authority in relation to certain aspects of group interests and traditional matters, the installation of relatively powerless 'representatives' or mediators as intermediaries in intercultural contexts, and the ultimate right of individuals to disavow decisions made on their behalf, creates a complex environment in which non-Indigenous outsiders lacking sufficient background knowledge may make serious errors. Unfortunately for those affected by such errors there may be little chance of reversing or revisiting the outcome – the bulldozer is already in, contracts let, monies

⁸ In addition to the avoidable damage to the site, the incident prompted the senior landowner of the damaged sacred site to hold the Centre President responsible for the damage and to successfully demand that the Centre pay the money received for hiring the backhoe as traditional compensation.

dispersed, official decisions taken in a far-off place.

Dynamics of group consent

Consultations are often managed decision-making processes involving a group of Aboriginal people brought together for the purpose at hand. But, as Sutton observes, in Aboriginal meetings

...only some of those eligible to be there are there, only some of those actually take part openly, only some of those who do speak actually introduce concrete propositions which could influence opinion, and only some of those present are authorized to present the consensus of the group to the outside world (Sutton 1985:382).

Furthermore, bringing people together for consultations *creates* 'jural publics', the size and composition of which are likely to have broader effects and ramifications. Consulting narrowly-recruited groups may inflate their powers of decision vis-à-vis broader community interests or, where they lack effective leaders, small groups may 'make poor decisions, cave in to pressure, resile from decisions only just made, or often make no decisions at all'. On the other hand, consulting very large groups 'favours the opinion-determining powers of those few individuals who have an acknowledged grip on wider regional politics' (1985:382).

Of course, a critical dimension here is the nature of the issue over which consent is sought. Sutton's concerns were made in a land rights context, whereas in relation to consultations with the custodians of a site or area, decision-making power anomalies are more likely to be held in check by the existence of defined rights and responsibilities under Aboriginal customary law. Nevertheless, as we have seen in Case Study 3, the composition of a group of custodians brought together for

consultation purposes can seriously affect the outcome. Also, as Case Study 1 illustrated, a ritually junior 'representative' (in that case, appointed as President of the Resource Centre) may, through injudicious comments, inadvertently undermine the objectives of more senior but less cross-culturally confident custodians.

Other factors can also effect the behaviour of groups being consulted. For instance, the relationship of a group to the body organising the meeting or consultation will effect the group's response. A meeting organised by a government body or the proponent of a project is likely to result in a different response than a meeting organised by an Indigenous representative body or organisation. Crucial factors here are the formality of the meeting structure and process and whether there are familiar or trusted individuals present who are assisting or conducting the meeting. Even such aspects as the seating arrangement can radically influence outcomes (Dodson 1996c).

The use of intermediaries in cross-cultural contexts

In Chapter 6 it was noted that the use of intermediaries in cross-cultural contexts is a feature of Aboriginal intercultural behaviour aimed at reducing the need to have to deal directly with whites. Intermediaries may be either Aboriginal (as in the example of representatives raised above), or non-Indigenous individuals who are known and trusted or who belong to a body, such as a Land Council or the AAPA, which is required to assist custodians in intercultural contexts. The use of intermediaries acts to help preserve cultural domain separation, to address a lack of confidence in confronting whites, and to avoid being directly involved in potential conflict. For example, in the encounter with the exploration crew described in Case Study 1, I was a means of 'testing the waters' in advance of the possibility of custodians engaging the workers directly themselves. Case Study 1 also illustrates how non-Indigenous

intermediaries are often treated with suspicion and hostility by whites who are seeking to consult with Aboriginal people. The mining executive, for instance, directed his hostility towards me as the white AAPA field officer who was assisting the custodians.

Knowledge ownership and cultural restrictions applying to information

Identifying the appropriate individuals or groups with whom to consult and ensuring appropriate assistance is available if required is only a first step to conducting successful consultations. The content of discussions, particularly with regard to cultural information and knowledge, presents potential barriers to communication, (and hence, meaningful outcomes) which may not be apparent to non-Indigenous participants.

Knowledge ownership and the cultural protocols associated with its distribution within Aboriginal society present both practical and ethical dilemmas (Michaels 1986). In practical terms, relevant cultural information may be unavailable within the context of an interaction. Responses from Aboriginal participants which are based on their inability or unwillingness to provide such information, may be misunderstood or overlooked by the non-Indigenous participants (Lieberman 1985; see also Case Study 3 above). Such a situation might arise for a number of reasons:

- the absence of individuals who control or are responsible for the information;
- cultural restrictions which may apply to its disclosure;
- an inappropriate context for disclosing the information (such as the presence of males/females in situations where gender-restricted information may be relevant);
- a strategy of withholding information to reduce unwanted white interference or surveillance;
- disclosure may run counter to normal cultural processes of imparting knowledge about country.⁹

⁹ I have observed in my experiences of 'mapping' sites and areas with custodians that much information withheld not only to maintain control of it or because of culturally restrictions

In such situations, Aboriginal participants may feel obliged to respond with what are, in effect, incorrect or misleading answers (or no answers at all) because of assumed or apparent expectations or intentionally-applied pressure from non-Indigenous participants. However, as with the ability to disavow decisions made on their behalf by representatives, Aboriginal people may not subsequently feel obliged to be bound by their answers. The responsibility here is on those who are seeking information or opinions to ensure that appropriate cultural protocols have been followed.

Conflict with Indigenous decision-making processes

A further consideration is the effect of the conduct and outcomes of imposed consultation events on suppressing Aboriginal cultural decision-making processes. Often consultations which are carried out by government departments and agencies and private sector interests pre-empt or preclude the possibility of communities making their own decisions about their needs and priorities. This is particularly serious where responsibilities under Aboriginal law regarding sacred sites are involved. Again recalling Case Study 3, the Commission representatives showed no understanding that Aboriginal approval for use of the site may have required broader Aboriginal decision-making processes. It is therefore understandable that Aboriginal people often regard themselves and their opinions as secondary to the whitefella-controlled agendas of many consultation processes. In other words, many consultation processes start with an already restricted horizon of potential outcomes because Indigenous processes are ignored.

applying to it, but because the normal cultural process of imparting knowledge about country is incremental and related to the context of the activity. An owner or custodian of an area would never take another Aboriginal person and show them all the sites on his/her land.

Time and resource constraints

Time and resource issues also constitute fundamental constraints on the effectiveness of cross-cultural activities. In general, the more important the issue or the larger or more significant the area under consideration, then the greater the requirements of time and resources in order to achieve effective results. In many cases time and resource limitations mean that effective consultation is not possible. For instance, a meeting held in a remote area requires considerable time for participants to travel to and from it, often limiting the time available to discuss the relevant issue. Key people may not be able to be present due to logistical or personal circumstances, and, depending on the time and resources available, it may not be possible to reconvene a fully representative meeting at a later date. Even informal consultations which don't require a large meeting may suffer from the unavailability of key people - for instance, if they are away on personal business, ill, or unavailable for a multitude of other possible reasons. This means that many decisions end up being made without the fullest possible consultation, frequently relying on those who are available to effectively make, or to be used to justify decisions about the traditional interests of others - a situation which leaves excluded individuals able to disavow decisions made on their behalf, although again usually after Euro-Australian expectations and processes have been mobilised towards the original outcome of the consultations.

Of course, the issue of resources is a product of the funding that is made available to those organisations charged with carrying out consultations with Indigenous people. Without sufficient funds consultation processes are likely to be inadequate and this has in fact been a chronic problem in Indigenous affairs funding and policy.

Language and communication issues

Consultation is principally about communication, yet, as we have seen, in cross-cultural contexts there are many potential barriers to communication occurring. In fact, due to the overt purpose of most consultations (that is, seeking something of significance to whites), consultations are even more likely to contain the kinds of communication barriers detailed elsewhere in the thesis, including acquiescent or non-committal communicative strategies and behaviours. Most of these barriers, in one way or another, involve socio-cultural differences - differences in language, understanding of concepts, modes of behaviour and protocols of communication, processes of decision-making, appropriate representation - even the amount of time necessary to deal with the issue at hand. As many of these issues have been discussed above and in previous chapters I will not duplicate the discussion here.

Ultimately, barriers to the communicative potential of consultations - the degree to which information can be communicated between and amongst the relevant parties - result in intersubjective evaluations during the course of a consultation event or meeting of what may be possible or not to achieve as a result. Communication remains the single-most structural impediment to effective cross-cultural interactions yet perhaps the aspect given least consideration by whites. Perhaps the best illustration of the degree to which communication issues have failed to gain serious consideration in Euro-Australian administrative contexts is the lack of interpreters (and lack of recognition of the need for interpreters) for Indigenous people in the Courts (Eades 1992). And this despite the fact that non-English speaking migrants are afforded a wide range of interpreter services in the community. Recently in the Northern Territory this issue has been placed in the public eye by the release of a report by the Northern Territory's first Anti-Discrimination Commissioner, calling for the immediate introduction

of an Aboriginal Interpreter Service.¹⁰ The same could be said for many processes of consultation which are conducted without interpreters.

11.4. Conclusion: consultation, negotiation and self-determination

The effect of the kinds of issues discussed above is to produce some level of uncertainty regarding the outcomes of consultations - a condition which potentially threatens the social, cultural, economic and legal interests of both Aboriginal and Euro-Australian participants. Often, the response to such uncertainty is to seek to deny its existence and to carry on as if the outcome was certain. This is made possible by the primacy given to written documentation over oral claims made by Aboriginal people themselves.¹¹

Given the realities of the complex relationship between Indigenous people and the state, processes of consultation will continue to be applied to various aspects of individual and community needs and interests. Therefore, a thorough-going analysis and understanding of the many issues related to cross-cultural consultations is required if such processes are to deliver the kinds of outcomes which are expected of them. This must include attention to the practical and ethical issues involved in any kind of cross-cultural endeavour; and an understanding of the implications of cross-cultural communication issues for consultative processes.

¹⁰ In the Northern Territory more than 70% of those charged with a criminal offence and more than 50% of those treated in hospitals are Aboriginal (interview with NT Anti-Discrimination Commissioner, Dawn Lawrie, ABC Radio *The World Today*, Friday 30 July 1999).

¹¹ Sometimes it is the lack of written documentation which is given primacy over oral claims of Aboriginal custodians. For example, the oral claims of the senior custodians of Coronation Hill were criticised because there had been no recording by whites of the traditional significance of the site in the past (Keen and Merlan 1990).

In terms of cross-cultural consultation, some of the key issues which need to be addressed are summarised in the following check-list:

- whether the people who are involved are the right people;
- whether the forum and context of the consultations are appropriate;
- whether the location is appropriate;
- whether the subjects being discussed are appropriate;
- whether the timing of the encounter is appropriate;
- whether the language used is understood by both sides;
- whether the manner of questioning is culturally appropriate;
- whether the description of the issues being addressed is adequate;
- whether there is adequate understanding of, interest in, or engagement with, the issues being discussed;
- whether there is adequate time for Aboriginal people to respond, including the opportunity to submit relevant issues to Indigenous decision-making processes.

However, there is an over-riding caveat to addressing such check-lists – and that is that cross-cultural encounters are always subject to the over-arching conditions of intercultural relations between the two cultures, and specifically the effects of power. Mick Dodson (1996:8-9), commenting on the process of native title mediation, suggests:

...in native title mediation, power imbalance is more important than cultural difference. Power imbalance...is manifested on cultural lines: the Indigenous side is less powerful than the non-Indigenous side. But the reasons for this are not inherent in the differences between the cultures. The reasons are historical and economic...Simply put, the biggest single operating cause for this power imbalance is dispossession.

Dodson's comments highlight the fact that, in the current political climate in Australia, we also need to direct our attention beyond the kinds of problems outlined in this chapter, to broader issues: the formal relations between Indigenous peoples and the state, and the condition of the intercultural relations between Indigenous and non-Indigenous Australians. Indigenous leaderships have similarly sought to approach

these issues more broadly, encouraged by international developments as well as domestic developments in native title, heritage protection and reconciliation. Their calls, reinforced by international bodies such as CERD, argue the need for proper negotiation and informed consent based on a commitment to the goal of self-determination and autonomy for Indigenous communities.¹²

¹² See, for example, ATSIC 1995; Dodson 1995b; Combined Aboriginal Nations of Central Australia 1998 (the 'Kalkaringi Statement').

CHAPTER 12: CONCLUSION: AN UNEQUAL COEXISTENCE

If Mabo is right, then we are a nation of thieves and murderers. It's a hard thing to accept after nearly 200 years of building a nation and giving homes to masses of people; certainly not forgetting that it was a calamity for the original people, the coming of another people.¹

Australia is proud of its record in honouring all of its obligations at international law and in being a world leader in the protection and promotion of human rights, especially the rights of Indigenous Australians.²

It will never be cheaper than now to extinguish native title.³

There is not one sacred site in this nation which is not available for negotiation – for cash.⁴

This thesis set out to examine issues surrounding an important aspect of coexistence between white and black in the VRD – the recognition and protection of Aboriginal cultural ‘heritage’ interests in land. In Chapter 1 I identified that the international benchmark for such recognition is the standard of *substantive equality* – a standard which draws together the need for recognition of cultural difference and the rights of Indigenous peoples to the practice and enjoyment of their cultures, with concern for the discriminatory effects of laws on Indigenous minorities and the need for special measures to overcome the discrimination and disadvantage they experience as marginalised citizenries of nation states. This means that it is not adequate to simply enact legislation that purports to achieve the protection of Indigenous rights. The environment in which the legislation operates is as important as the legislation itself –

¹ Elizabeth Durack, “60-Minutes”, 28/9/97.

² Website of the Minister for Aboriginal and Torres Strait Islander Affairs, Sen. Herron: page entitled “Myth - Australia is Breaching Human Rights Obligations” (http://www.atsia.gov.au/fr_rebut.html).

³ National Party Federal Senator Ron Boswell, ABC Radio ‘PM’, 6/5/97.

⁴ Graham Campbell M. P., Member for Kalgoorlie, second reading speech on the Aboriginal and Torres Strait Islander Heritage Protection Bill, 1998, *Hansard*, 4 June 1998.

perhaps more so. Unfortunately in Australia most Indigenous legislation and its operating environment fails to adequately meet the standard of substantive equality.

In coming to such a conclusion I have applied a range of empirical, conceptual and theoretical perspectives in order to probe the underlying conditions of intercultural relations in the VRD at the interrelated levels of cultural difference (including differences in language and conceptual understanding), power relations, and strategic interaction. An important analytical framework for examining contemporary relations has been that of history – foremost the history of intercultural relations in the VRD and within the broader Australian context, but also the history of the ideas and conceptual understandings, such as those of ‘social Darwinism’ and ‘heritage’, which continue to play a major role in the framing of Euro-Australian responses to Indigenous cultural interests in land. Understanding gained from these areas has been applied in examining the differing contemporary contexts in which Indigenous heritage issues are negotiated and determined. At each of these levels substantial inequalities were found to exist to an extent that justifies the main title of the thesis: ‘an unequal coexistence’.

12.1. From ‘station black’ to ‘Aboriginal custodian’

A central focus of the thesis has been land. It is the ultimate source of cultural conflict and the object around which the needs and aspirations for coexistence must be framed. Chapter 2 showed how land, in being as much a cultural artifact as it is a physical entity, underpins and is used to express the ‘racial’ division and conflict which has characterised intercultural relations since Europeans first arrived in the area. European construction of land is centred around the concept of ‘development’, creating a set of ‘conceptual landscapes’ which highlight the transactional nature and productive potential of the land. European history of the area is overwhelmingly one of

attempting to create a productive, settled landscape from a previously unproductive one (Riddett 1988, Head 1999). Aboriginal conception of land is reversed – it posits a pre-existing productive, Dreaming-settled landscape which current generations manage and derive resources from through learning and activating its spiritual connections to their lives. Land, spirit and self are thus conceptually inseparable. These diametrically opposed views, meeting on the most unequal of terms, have resulted in Aboriginal dispossession; in their subjugation as ‘station blacks’ faced with a tenuous coexistence predicated on submitting to European control and use of the land.

Chapter 3 considered how the cultural segregation and inequalities of the past persist in the modern context of the VRD. Cultural segregation remains an aspiration of both the Aboriginal and non-Indigenous residents. The chapter showed a pattern of relations and attitudes which are yet to benefit from a sympathetic understanding by whites about Aboriginal cultural attachment to land, or of the role of white outsiders (‘do-gooders’) in supporting Aboriginal aspirations. Instead, what has developed is an entrenched view of contemporary Aboriginal communities as being culturally deficient in comparison to their ‘traditional’ predecessors, and as being manipulated by outside interests.

Contradicting such a view is evidence concerning contemporary Aboriginal cultural attachment to land, considered in Chapter 4. My own research in the VRD over a period of many years supports the work of many other researchers in finding strong continuities with the past in Aboriginal beliefs and attitudes about country and in the manner in which these are learned and reproduced. These very processes, often carried out through physical connection with the land - particularly everyday activities such as hunting, collecting of bush resources and medicines - show us not only how processes of change are inherent in cultural practices (or in the practice of culture), but

also that non-Indigenous access to cultural knowledge for such purposes as heritage protection and land use planning, must be anchored to the present through an ongoing consultative relationship with Aboriginal custodians based on respect for their cultural laws and processes in relation to sites and land. Relying on information and consultations carried out in the past is untenable, as is the fiction that somehow a once-and-for-all map of all sites is an achievable and workable planning option.

Assumed to be heading towards cultural extinction, the sheer persistence and vitality of Aboriginal cultures has forced Governments and their Administrations, inch by inch, to recognise the distinctive needs and aspirations of Aboriginal communities, albeit on terms mostly imposed by the dominant culture. The subjection of Aboriginal cultures to the Western paradigm of heritage is a prime example, explored in detail in Chapter 5, where I use the term 'heritage-isation' to convey the effects of the heritage paradigm in essentialising and controlling Indigenous heritage. Aboriginal experience, however, sits uncomfortably with heritage theory and practice, revealing an emphasis on problematic intercultural relations rather than the rights which heritage legislation has established. In contrast, local non-Indigenous responses to Indigenous heritage legislation are framed by a broader discourse of unfair Indigenous 'special rights' and of consequent non-Indigenous disadvantage.

The scale of cultural disparity exposed by the discussion indicates an equally fundamental disparity in the conduct of intercultural relations and cross-cultural communication. Chapter 6 took up this theme, exploring the nature of power and cultural difference in intercultural settings. Comparison of 'domination-resistance' and 'collaborative' models of contact history suggests in the latter an underestimation of the coercive underpinning of pastoral relations and of the increasing significance of the role of cross-cultural communication in mediating and facilitating practices of domination, resistance and collaboration. Sustaining this structure of interaction has

been the existence of separate cultural domains and differences in cultural conceptual systems and modalities of communication. A particularly useful concept for analysing the dynamics of cross-cultural encounters is Scott's 'hidden transcript' which provides a framework for locating the operation and effects of power, and for understanding how whites have preserved an ideological perspective which masks their own position of power and its effects on Aboriginal responses.

The findings of Chapter 6 are borne out in the history of intercultural relations in the VRD, examined in Chapters 7 and 8. In the aftermath of the often brutal confrontation and struggle of the frontier and the ravages wrought by introduced diseases, many of those who survived found themselves as rationed slaves on the vast, feudally-run pastoral stations which swallowed up their tribal lands. Within the bounds of white domination, however, and to some degree *because of it*, cultural differences were maintained and a conditional coexistence developed which recognised, and in the institution of the wet-season 'holiday', for instance, relied upon Aboriginal attachment and use of the land. On Auvergne in the post-World War 2 period we saw that whites learned very little about Aboriginal attachment to the land and that Aboriginal custodians withheld information about sacred sites. The chapter outlined the nature of repressive and coercive practices of pastoralists towards Aboriginal station workers and the corresponding Aboriginal responses of seeking to avoid confrontation, to maintain a separation of cultural domains, and, where possible, to establish relations of exchange with whites. A further characteristic of the station existence was the accommodation of pastoral work by Aboriginal people and its incorporation into Aboriginal cultures.

Events from the 1960s resulted in the shattering of this tenuous and mostly one-sided coexistence and the estrangement of Aboriginal people from many stations as new 'independent' communities were established. In the VRD most of these new

communities were on land excised from pastoral leases. This period, addressed in Chapter 8, saw the difficult transition from the policy of assimilation to that of self-determination, a transition which owed much to Aboriginal demands for the return of land and autonomy from whites. The Wave Hill strike and walk-off was only one of a number of similar actions by Aboriginal groups in the VRD and elsewhere.

However, in pastoral areas there was also a significant and sustained backlash from pastoralists, particularly towards land rights and sacred sites. Their arguments applied attitudes and ignorance about Aboriginal cultures which had attained the status of dogma during the station era. One such view was that Aboriginal culture was declining towards extinction. Another posited the suggestibility of blacks and their susceptibility to the interference and manipulation of white outsiders ('do-gooders') who didn't understand the blacks. There was also deep suspicion of the role of Government administrations. These beliefs underpinned pastoralists' construction of themselves as a constituency fearful of and disadvantaged by land rights and sacred site protection. We can still see these articles of faith in the current concerns of pastoralists and others concerning native title and other Indigenous rights to land. The transition from 'station black' to 'Aboriginal custodian' has thus involved significant local and national ramifications which remain as potent as ever in the present social and political climate of post-*Mabo* Australia.

An important conclusion of the thesis is that Australian frontier history past and present is based on profound intercultural miscommunication. One of the main causes of such miscommunication is the tendency for whites to be uncritical of the effects of their own power on the responses of Aboriginal participants in cross-cultural interactions. Compliant or gratuitous responses are instead misinterpreted as endorsement. The significant reduction in personal interactions between pastoralists and Aboriginal people in recent decades has also resulted in pastoralists perceiving younger,

unfamiliar generations as hostile to their interests. This has resulted in attempts to prevent their access to pastoral leases in a manner not dissimilar to European reaction towards 'bush blacks' in the past. In such ways the bases for an unequal coexistence have been maintained and reproduced over time.

12.2. The terrain of coexistence in the 'heritage era'

So what of the current situation in the VRD? What is the nature of the intercultural terrain in which coexistence must operate and what are the elements of the current coexistence, if in fact that is what it can be called? This thesis has identified a number of intersecting contexts and elements which are critical to the recognition of contemporary Aboriginal heritage interests in the VRD.

Indigenous cultural domains

Firstly (and arguably the most important in the equation), is the context of the Indigenous cultural domain itself – the internal Indigenous social and religious institutions and everyday practices which produce and maintain the very aspects of their cultures which have become the objects of 'heritage' concerns. The degree to which Aboriginal custodians have sought to withhold cultural information from whites in order to maximise their cultural autonomy, and the corresponding implications which the resulting 'hidden transcript' produces in intercultural dealings has been identified in this thesis as a defining and critical issue in the broader structure of relations between the two cultures.

Significantly, 'the refusal of Aboriginal people to adopt Euro-Australian values and

lifestyle and their exclusion of Whites from their cultural domain' (Trigger 1988:222) underscores the fact that the central issue in black-white relations in the VRD is working towards the conditions for a mutually respectful coexistence, rather than to assume a merging or assimilation of Indigenous peoples into Euro-Australian institutions and lifestyles. Indigenous leaderships, supported by international instruments, have sought to articulate the shape of such a future coexistence based on the principles of self-determination and self-governance (Dodson & Pritchard 1996; ATSIC 1995; Dodson 1995b).

Heritage protection regimes

A second critical element is that of cultural heritage legislation, considered in Chapter 9. In the Northern Territory, this principally comprises the *Sacred Sites Act*, and its administrative apparatus, the AAPA, but also includes provisions of the *Land Rights Act* which establish a crude presumptive protection of sacred sites and empowers the Land Councils to assist traditional owners to protect sites. Strong national legislation providing a mechanism of last resort for custodians failed by state or territory regimes has also been identified as an essential element of a comprehensive national Indigenous heritage protection system (Evatt 1996). The current *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, while having played only an occasional but nonetheless crucial role in sacred site protection issues in the Territory, is in the process of being replaced to uncertain effect (see below).

As the principal legislation relating to non-Indigenous-owned land, the *Sacred Sites Act* and through it, the AAPA, confers considerable powers and rights of consultation and participation on Aboriginal custodians, and is regarded by some as the current 'best practice' model in Australia. There are, however, significant aspects of the legislation

and its administration which are problematic. In addition to concerns about its independence and potential for Ministerial intervention, lack of compulsory work area clearance provisions in the Act means that a considerable amount of planning, development and private activity takes place on non-Indigenous-owned land without AAPA involvement⁵. On pastoral leases, time and cost disincentives and pastoralists' mistrust have meant that the AAPA is seldom approached in relation to station development works.

Another significant problem with Indigenous heritage legislation is the degree to which its processes clash with Indigenous practices and strategies for managing and protecting sites, particularly with regard to requirements for the disclosure of cultural information. The uncertainty of local relations with landowners is also a disincentive to seeking protection for sites. The operation of *Sacred Sites Act* has also failed to result in significant improvement in Aboriginal access to non-Indigenous land for the purposes of monitoring and managing sites, and to pass on knowledge to younger generations.

By-passing legislation: direct approaches to custodians

This raises a third critical element of the current situation: that of non-Indigenous actions and initiatives taken outside of formal statutory cultural heritage frameworks. This includes instances, such as those raised in the introduction to this thesis, where there is no contact or consultation at all with Aboriginal custodians. The extent of such action represents a considerable potential for sites to be needlessly encroached upon, damaged or destroyed. However, there are also situations where Aboriginal custodians

⁵ On Aboriginal Land, of course, the Land Councils carry out all relevant Aboriginal heritage protection and work area clearance functions.

or local Aboriginal organisations are directly approached for advice or approvals concerning proposed development works. While in some instances the results of such approaches lead to generally satisfactory outcomes (such as the efforts of the management of Auvergne Station), in others there have been disastrous results (such as the mining company's actions in Case Study 1). There are a number of potential solutions to these problems. An obvious one, of course, is the insertion of compulsory works area clearance provisions in the *Sacred Sites Act*. Another would be for the AAPA to provide cost subsidisation for pastoralists and other private landowners for whom the cost of obtaining work area clearances is a disincentive. This happens to some degree already but it is likely that even were such a measure extended that there would still be landowners and land users who, for reasons of delay or other objections, would not avail themselves of the service. A third option is for heritage protection to be the subject of a negotiated land use agreement between landowners and custodians, brokered through either Indigenous representative bodies or the AAPA (see below).

The present positive relationship between custodians and the manager of Auvergne demonstrates the considerable advantages of establishing personal cross-cultural relations and understandings at a local level as a means of negotiating mutually beneficial outcomes. For the Auvergne manager, this does not require demonstration and proof of the cultural significance of areas and cultural uses, but relies on the establishment of relations of communication and trust. But it should be remembered that this has been possible because of the attitude of the owners and current manager as well as the fact that the Aboriginal community lives on the station relatively close to the main homestead, making the maintenance of contact convenient. Establishing relations is more difficult where custodians live off-station, or where white managers are unsupportive or critical of Aboriginal cultural access to stations. The circumstantial absence of Aboriginal people from many stations since the 1960s and 70s has become a factor in pastoralists' and custodians' unwillingness or inability to initiate relations.

These types of impediments have, in my experience, often been insurmountable for Aboriginal custodians in the VRD, pointing to the need for appropriately-resourced Indigenous heritage bodies or representative organisations to act as facilitators and mediators in establishing such relations (see below).

Aboriginal representative bodies

A fourth critical element is that of Indigenous organisations such as land councils, local resource centres and other Aboriginal bodies which play a vital role in coexistence. However, as Sullivan (1996:123) points out, these bodies 'are intermediate systems acting as a conduit between cultures and are therefore themselves fundamentally ambiguous'. The difficulties of satisfying both European administrative demands and the cultural and community interests and expectations of Aboriginal constituencies, usually with extremely limited resources, is a difficult and often debilitating mandate for such organisations.⁶ Despite such difficulties, there remains a vital need for properly resourced Indigenous organisations which can represent the interests of custodians wherever necessary.

Heritage protection is already an important function of representative bodies, such as the Land Councils, particularly on Aboriginal Land. In fact, under the *Sacred Sites Act*, Aboriginal Land is accorded a higher level of protection through the absence of a defence of 'reasonable ignorance' for carrying out unauthorised works. In addition, as the owners of the land with the power to prevent unwanted non-Indigenous access, traditional owners are in a better position to protect sites. Another advantage is that the

⁶ In the wake of the Federal Government's 1998 *Native Title Act* amendments, the imposition of onerous accountability and procedural strictures on Indigenous representative bodies and a continuing lack of adequate funding has compounded existing difficulties in meeting their responsibilities towards Indigenous communities.

AAPA has effective primary carriage of heritage protection over only about 50% of the area of the Northern Territory (that is, on non-Aboriginal land). This means that there is already a capacity within the Land Councils to fulfil heritage protection roles which the AAPA is unable, unsuitable or unwilling to carry out. This may include such roles as monitoring local non-Indigenous activities and intervening where necessary, providing professional and logistical assistance to custodians, and negotiating and administering local or regional negotiated agreements processes.

Negotiated agreements

Negotiated agreements provide the most promising alternative means to legislation for dealing with cultural access and heritage protection issues on non-Indigenous land. However, achieving such outcomes requires considerable resources and appropriate frameworks for negotiating agreements which provide support for Indigenous parties. This thesis supports the observation that

strong and representative Aboriginal organisations...are the lynch-pins of negotiated agreements, providing the support structures for legal and technical advice, obtaining consent from constituents and servicing of agreements (Northern and Kimberley Land Councils 1997).

Negotiated agreements could be achieved under a variety of existing frameworks – native title mediation processes, regional agreements processes or Indigenous Land Use Agreements (ILUAs) under the *Native Title Act*. Agreements could also be possible under the *Sacred Sites Act*, although the lack of a formal registration process for such agreements under the Act means that resulting agreements would be unlikely to be monitored or enforced.

Importantly, negotiated agreements processes must be carefully designed in order to

achieve equitable and effective outcomes for Indigenous groups (see, for example Dodson 1996; Sullivan 1997; O'Fairchellaigh 1998; Howitt 1997).

Fear and loathing: the public and political dimensions of Indigenous heritage

Finally, there is the critical context of the broader discursive environment in which debate about Indigenous heritage issues occurs. This includes government actions in articulating policy and communicating with electorate constituencies, media and academic commentary and debate about heritage policy and specific heritage issues, and the lobbying and other publicly-focused activities of industry and other special interest groups both supportive of, and antagonistic to, general or specific issues relating to Indigenous heritage protection. Most local Indigenous groups, such as those in the VRD, are restricted in their access and involvement in the broader policy and national dimensions of such discourse and must rely on Indigenous representative bodies, such as the NLC, to mediate and represent their concerns in relevant forums.

The conservative Northern Territory Government continues with a hostile and alarmist approach to the issues of land rights and native title. Top of its political agenda is the transfer of control of the *Land Rights Act* from the Commonwealth to the Northern Territory and the reduction of the powers of the Territory Lands Councils. At the time of writing, following rejection of the Northern Territory's proposed s43a native title legislation by the Federal Senate, former NT Chief Minister Shane Stone (currently Liberal Party National President and Member of the Legislative Assembly of the Northern Territory) likened the Land Council's practices to extortion, claimed that Australia had been 'conned' into accepting native title, and stated that regional agreements processes being pushed by the 'Aboriginal Industry' and the Land Councils had 'harmed the Territory's development' (ABC News, 21st October 1999). A

similarly divisive and alarmist approach has characterised the Federal Coalition Government's reaction to native title.⁷ The Prime Minister's refusal to negotiate or consult with the Land Councils and other key Indigenous leaderships over its 1998 native title legislation has, as we have seen, attracted criticism from the UN's racial discrimination Committee (CERD) – a finding which the Government has rejected out of hand.⁸ Lack of consultation with and Indigenous participation rights has also been a feature of the Government's approach to amending Commonwealth Indigenous heritage legislation.

12.3. Some implications for the present and future

The foregoing sketches out the dimensions of the intercultural and socio-political issues confronting a coexistence of Aboriginal heritage interests with the interests of non-Indigenous land owners and land users. It remains to comment on some of the broader implications of the research for present and future Indigenous affairs policy.

Confronting the 'G'-word

While the subject matter and focus of this thesis precludes a proper consideration of

⁷ Perhaps one of the strongest examples of the Government's role in scare-mongering over native title was the spectacle of the Prime Minister, John Howard, holding up on national television a map of Australia with 82% shaded dark brown, and claiming, quite fallaciously, that it represented the potential area over which native title would deliver control to Indigenous people over development activity.

⁸ In a controversial move, the Minister for Aboriginal Affairs has used the 1999 re-publication of a Federal Government booklet, *Rebutting the Myths*, aimed at de-bunking common but prejudiced views about Indigenous issues, to insert a new myth ('Myth: Australia is Breaching Human Rights Obligations'). The new myth aims to counter criticism, such as that by the UN CERD Committee, of the racially discriminatory nature of the Australian Government's Indigenous affairs policies. The new myth replaced an existing one ('Myth' - Aboriginal people get special treatment from the Government). See also Margot Kingston, 'Book for schools defies UN ruling', *Sydney Morning Herald*, 22 October 1999.

Tatz's (1999) detailed arguments in relation to genocide,⁹ much has been presented here concerning non-Indigenous policies and practices which warrants comment in terms of

...the lesser offence (but not crime) of "ethnocide" or "cultural genocide", that is, the deprivations of opportunity to use a language, practise a religion, create art in customary ways, maintain basic social institutions, preserve memories and traditions, and co-operate in achieving social goals (1999:15).

Specifically, policies and practices which have prevented Aboriginal groups from residing on or accessing their traditional lands constitutes deprivation in terms of a number of criteria under this definition. This conclusion becomes more apparent if we relate such deprivation to the structure of Indigenous societies. For instance, it is proper to talk of Indigenous 'cultures' in the plural to indicate that Australia comprises many different Indigenous cultures, each with distinctive traditions relating to a separate, bounded tract of land. This means that individual cultural groups, particularly where there are relatively few knowledgeable individuals remaining alive, are far more susceptible to the impairment or loss of important elements of their cultures through non-Indigenous impacts, particularly those relating to the actions of landowners. An entire group's traditional land may be occupied by a single pastoral lease or swallowed up within town boundaries and freehold grants.

A critical area of non-Indigenous impact has been the active opposition to and thwarting of Aboriginal cultural claims over pastoral lands by the actions of governments and pastoralist and farmer lobby groups. Such intent was clear in the actions of the NTCPG and the Federal Government following the Wattie Creek land

⁹ Tatz (1999) argues that Australia is guilty under international law of at least three acts of genocide in its treatment of Aborigines: Aboriginal slaughter by individuals and 'rogue police officers' last century; the practice of removing Indigenous children from their families which continued into the 1980s; and attempts to 'achieve the biological disappearance' of those deemed 'half-castes'.

petition in May 1967 (see Chapter 8). It has been clear in the actions of the Northern Territory Government and the pastoral lobby in resisting and stymieing the process for obtaining community living areas on pastoral leases since the 1980s. And it was clear in the actions of the Federal Government and the pastoral lobby in response to *Wik*. Not so apparent, but of devastating effect has been the exclusion of Aboriginal people from pastoral leases through 'management' processes, particularly locked gates, fences, the requirement for obtaining permission from the manager every time access is required, etc. In a recent example, the registration of an important sacred site, Mt Connor, by the AAPA prompted the following response from the white owner of the pastoral lease on which the site is located:

That would be a damned nuisance if the Aboriginals want to go and visit their sacred site in as much as they would have to get the key from us, and they [will] probably never ever return the key, and they would wander all over the place and in amongst the cattle et cetera, and it would be a damned nuisance (ABC News 28/9/99).

The lease-holder also stated that he would be keeping access gates to the site locked.¹⁰ 'Damned nuisance' or not, to physically protect a sacred site without also protecting the ability to carry out cultural practices relating to it, such as access for ritual and cultural management purposes, or to pass on knowledge and experience to younger generations, is to treat it as a monument or artefact according to European heritage values, rather than as a piece of living culture. It would constitute an increment of cultural genocide by omission. Taken in context of the present state of intercultural relations and common management practices we can see that younger Aboriginal generations are progressively being denied the opportunity of first-hand

¹⁰ The AAPA responded that the lease-holder could not legally bar custodians from the site (ABC News 28/9/99). Under the *Sacred Sites Act* it is an offence to obstruct access to a sacred site to 'a person with the express approval of the custodian of a sacred site...for a purpose...permitted by Aboriginal tradition...' (s47). In practice, however, the lease-holders actions in maintaining a locked gate may be sufficient to prevent access. The example is one which demonstrates the need for a negotiated agreements process between landowners and custodians.

experience of the land, despite the fact that their elders still hold such experience and knowledge. However, with the passing of older generations the opportunity to reverse this trend is becoming increasingly difficult.¹¹

While the *Sacred Sites Act* provides for access to sacred sites by custodians on any land, in practice there is little facilitation of access arrangements between custodians and landowners. Experience shows that poor or non-existent relations with non-Indigenous landowners is usually a sufficient disincentive to prevent attempts by custodians to gain access to sites. The 1998 *Native Title Act* amendments tightened the requirements for access to land under native title claim, further entrenching an expectation that access is a peripheral and qualified native title right. It remains to be seen what access provisions will be provided in the revised Commonwealth Indigenous heritage legislation, although the review of the existing act only recommended access provisions for Crown land (Evatt 1996: Recommendation 6.8).

Native title and extinguishment

The results of the thesis also suggest that the present approaches of government towards native title (in countenancing the further extinguishment of native title on pastoral leases, for example), is seriously flawed. Not only are such approaches racially discriminatory and against the wishes of Indigenous people themselves, but they also ignore the fact that Indigenous heritage protection will remain as an issue requiring ongoing negotiation between Indigenous people and non-Indigenous landowners whatever the outcomes of native title claims and court challenges may be.

¹¹ It is well to be reminded here of the facility for oral transmission of cultural knowledge about land and sites. It is common for Aboriginal people to know the names and details of sites via such means without having visited the site.

Against such a reality, monies earmarked for compensating native title holders for the enforced loss of their property rights¹² would be better spent on provisioning negotiations for land use agreements between Indigenous people and non-Indigenous landowners that include heritage along with other native title and land use issues. The central issue as identified in this thesis is the nature of relations between white and black and the need for Indigenous people to be afforded the right to maintain their religious and cultural links with the land.

Squandering irreplaceable cultural capital

One of the tragedies of the confrontationist approaches of governments and non-Indigenous pastoralists towards continuing Aboriginal cultural links to pastoral land is that opportunities for advancing reconciliation between pastoralists and Aboriginal custodians at the local level are lost. In this respect, the considerable cultural capital which remains in the form of shared knowledges and experiences of pastoralism, represents an important resource which is virtually ignored. It is significant that older Aboriginal people from pastoral backgrounds have frequently been the most eloquent proponents of reconciliation and coexistence.¹³ What they have sought and continue to seek, is constructive engagement on these issues with white Australia. Shared knowledge and experience constitute points of articulation between coexisting Aboriginal and non-Indigenous interests on pastoral leases and as such are natural and immediate subjects on which dialogue can be built.

¹² The Federal Government has agreed to pay 75% of the cost of compensation to native title holders for extinguishment of native title by the states and territories. This could be interpreted as an incentive for states and territories to extinguish native title rather than to consider coexistence solutions.

¹³ For VRD examples see, for instance, Rose 1991.

Coexistence

This thesis challenges the claims of pastoralists and many in government that coexistence is unworkable. And as we contemplate the process towards reconciliation on the eve of a new millennium it is sobering to reflect on an example of coexistence from the turn of the last century which, while being atypical of its time, shows us that coexistence has in reality been possible all along. The example is provided by Pamela Lukin Watson in her study of frontier reminiscences from the remote south-west corner of Queensland. William Duncan came to Mooraberri Station in 1891 and was managing the property by about 1894, about the time that the Duracks took over Auvergne Station. Watson (1998:30-31) tells us that Duncan 'listened to tribal elders expounding aspects of Aboriginal Law with genuine interest and respect' and acknowledged them as the 'rightful owners' of the land. Moreover, the Duncans

...accepted the Karawuli decision as to where the Duncan homestead should be built. They acquiesced too in the right of tribespeople to refuse them access to sections of the property, and on some parts of Mooraberrie the locals posted guards and sentries to warn away whites. For one month of the year, the Duncans could neither use nor visit one section of their property because Kooridala...and other tribespeople were celebrating very secret ceremonies connected with the moon. Yielding primacy to native juridical and procedural rules was another way in which the Duncans acknowledged Karuwuli rights to land. Duncan-Kemp describes many episodes in which pastoral routines were disrupted or terminated by cultural considerations. Unlike the case elsewhere, these interruptions were never construed as 'blacks being unreliable' (Watson 1998:33).

The example of Auvergne in the 1990s approaches a contemporary equivalent to Mooraberrie. It and other existing examples of successful coexistence,¹⁴ although not currently the norm, give lie to claims that the only practical solution is the actual or virtual extinguishment of native title rights. Instead, what is required are processes which bring landowners and Aboriginal custodians together in constructive dialogue.

¹⁴ See, for example, RLC 1998.

Negotiated land use agreements offer a workable and more equitable solution than extinguishment, providing a useful framework for negotiating a coexistence of interests between pastoralists and Aboriginal people, including agreement about rights and interests which may otherwise be unrecognised under existing common law or statutes. Regional agreements too, have emerged as important tools, particularly in their ability to include peak and other representative non-Indigenous organisations in negotiations.¹⁵ However, it is important that these include mechanisms which can facilitate the establishment of positive communication at the level of individual leases. Above all, there needs to be a clear articulation and promotion of the concept of coexistence - one that acknowledges the experiences of the past, alongside legislative measures which empower Indigenous interests.

An equal place at the table

However, this thesis has also shown the ways in which Aboriginal custodians are placed in a position of relative disadvantage in many formal and informal consultation contexts as a consequence of a range of circumstantial and contextual constraints on their ability to negotiate from a position of comparative parity with whites. Rights in legislation must be assessed against such constraints and the fact that this has not occurred contributes further to the perception of a structural neglect of Indigenous cultural interests and a failure to acknowledge the fundamental inequalities in power on which such neglect is built. These unequal power relations are maintained amidst a continuing ignorance of Aboriginal social conditions and cultural interests, and a refusal to acknowledge the extent to which contemporary race relations derive from Australia's colonial past. These failures of understanding stand out as key issues which must be

¹⁵ See, for example, the Cape York Heads of Agreement (RLC 1988:4346).

addressed if true reconciliation between Indigenous and non-Indigenous Australians is to be achieved.

Appendix A

**Transcript of consultation meeting
concerning a proposed Ranger's residence
by the Parks and Wildlife Commission of
the Northern Territory (Case Study 3)**

Transcript of the meeting discussed in Case Study 3

Case Study 3 is instructive of many of the issues of problematic communication and consultation processes discussed in this thesis. Below is a full transcript of the relevant section of the meeting which is analysed in the case study. The transcript is taken from a video made by the Commission. It is prefaced by a list of those who participated in it.

R1= local district ranger-in-charge;
 R2= regional officer (from Katherine);
 ALO= Aboriginal Liaison Officer (from Katherine)
 FC1= female custodian 1;
 FC2= female custodian 2;
 MC1= male custodian 1
 MC2= male custodian 2 (is present but does not speak during the meeting)

[Video recording begins while the meeting is in progress]

1. R1: *...It's [the Ranger's residence] got to be somewhere where that big flood of two years ago didn't go - you know in 1991 all this valley was like a big sea---*

2. FC1: *That's right, eh.*

3. R1: *---anyhow they said they won't build a house where the water goes. So, what we want to do is find some high ground where we can build a house where it's alright with you people. So ummm. But basically what we've done is looked around at all the high ground in this valley - there's no flat areas where you can put a house---*

4. FC1: *Mmm.*

5. R1: *---there're all pointy or they've got a big scarp like we climbed up over here [laughs].*

6. FC1: *[laughs too] Yeah.*

7. ALO: *Have it down there, well the water gonna wash it away.*

8. R1: *So we looked around and this area here is about the only place we've found with much flat. And ah---*

9. MC2: *[inaudible]*

10. R1: *Yeah---*

11. R2: *What we're thinking - this is a big park - I mean, this is one*

corner, right, all the park goes back this way [indicating] and then further over Timber Creek there's more.

12. FC1: Yeah.

13. R2: And it's going to be busy in here because Vic River Inn, they've got a caravan park, they've got a place to eat and drink and all that, and also, like before when Max was running those boat tours on the river here---

14. FC1: Yeah

15. R2:---maybe someone will start that up again. So we figure if we've got to put someone we put 'em in here, one of our people, 'cause they can look after the park but this is where most of the people are gonna be---

16. FC1: Yeah

17. R2: ---so for us this is a good spot, you know, we can keep an eye on all the people and sort of run the park from here as well. That's why we want to put it here. So I guess what we're asking you lot mob is to say, you know, give us a bit of a hand to pick a spot in here somewhere that we can use that's alright with you, that's alright with us.

18. FC1: [directed to MC1] [inaudible].

19. MC1: Yeah, did you get any papers from when, ah, David Cooper?

20. R2: We didn't get any papers---

21. R1: We haven't got any papers yet [MC1], but what he's told us is that, ah, that site over here that you had registered before [indicating an area of escarpment to the west] - he reckoned after that meeting with you people, that probably that extend down, down to the bottom of the hill here now [the ridge on which the consultation was taking place]---

22. MC1: Yeah, that's what we said, yeah.

23. R1: So this is all part of that same site?

24. MC1: I know he's part of that site and ahhh what we heard from you mob that this [is] on the park - you know, I know he's on the park, he's on the national park area. But I mean, it's the site - that's what I'm worried about.

25. R2: Yeah.

26. R1: So, ah---

27. R2: [Emphatically] Well that's---

28. MC1: [cutting R2 off] I understand there's no way - where we can't find any other place, just like what you said, because when you get some big floodwater - because you know, it's going to - he's [the ranger's residence] gonna be underwater.

29. R2: Yeah

30. MC1: *But you want to find it some place where it's good high ground.*
31. R3: *Mmm.*
32. R2: *See when we picked this site before, like - the information that we had from Cooper's mob [the AAPA] was that site over in here [indicating an area of escarpment to the west] - now when you - so we thought we'd pick it here which is outside the site area. Now, you know, you blokes have said that - changed that a bit - now the site goes down here, so it actually goes right to the edge of the park. So what we want to try and do is find a bit of middle ground.*
33. MC1: *Yeah, well site goes right into the - where the pub is anyway. See, where they got that water in - you know that water is pretty funny taste in it eh? And that that little, you know that Picaninni Dreaming - we call it - when he went in for toilet, you know, he pee and that water is pretty bad.*
34. R1: *Too salty, yeah.*
35. MC1: *It closer the fresh water - where you going to get it fresh water eh?*
36. R1: *That's right.*
37. MC1: *That water is really bitter, you know. It's no good. [Turning to FC2 and the other Aboriginal custodians present] Well anyway, we - what you want to reckon bloody high country cause they want to put a house here?*
38. FC2: *[inaudible]*
39. FC1: *I just want to give it them, baba, yeah.*
40. MC1: *Because they'll look after it.*
41. FC2: *[inaudible]*
42. FC1: *Yeah*
43. R1: *See, we don't want to - we don't want to muck up your sites, but, you know, we've got other sites on the park where we've come to an agreement with people to say, it's a sacred site, but they might say, well you can do this here, and you can do that there, but, you know---*
44. FC1: *Mmm*
45. R1: *---so we just wondering - we know it's in the site area but - we were wondering whether you'd still let us build a house here?*
46. FC1: *Yeah*
47. MC1: *No, well any other where you can't build a house nowhere well - I think we agree that you can build a house here.*
48. FC1: *Yeah*

49. R2: *We can build a house somewhere else on the park, but, like we said - there's going to be a lot of people here---*

50. FC1: *Yeah*

51. R2: *---lot of business is here, access is good, so, and like you've got, like [R1] said, I mean, we don't want to muck up the site - and I guess, [if] we put someone in here then you've got other sites that need lookin' after - I mean, we help you look after those sites as well.*

52. FC1: *Yeah*

53. MC1: *Well these mob [the Commission] got Joe Creek just down the road.*

54. R1: *Yeah, well that's right, important area [inaudible]---*

55. R2: *Well, what we want to do is like - we do it together, you know - that's what we're saying, basically. But we've got to go - you know, we've got to go, you and us together, go to Cooper's mob, you know, sacred sites mob and say, yep, it's alright, or whatever.*

56. MC1: *Well, I'm agree that you can build a house here.*

57. FC1: *Yeah, we all agree you can build a house here - that's alright.*

58. R2: *We need probably to define the areas a bit more.*

59. R1: *Yeah, well we'll go in a minute...*

[further discussion of what is wanted followed by an inspection of the proposed site]

Bibliography

- Aboriginal and Torres Strait Islander Commission [ATSIC]. 1995. *Recognition, Rights and Reforms: Report to Government on Native Title Social Justice Measures*, ATSIC, Canberra.
- Aboriginal and Torres Strait Islander Commission [ATSIC]. 1999. ATSIC Submission to the Commonwealth Attorney-General on the Northern Territory's s.43A Scheme. 9 April 1999, Canberra.
- Aboriginal Areas Protection Authority [AAPA]. 1994. Submission to the Culture and Heritage Inquiry, House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs
- Aboriginal Areas Protection Authority [AAPA]. 1995/96. *Annual Report*, Aboriginal Areas Protection Authority, Darwin.
- Aboriginal Areas Protection Authority [AAPA]. 1996/97. *Annual Report*, Aboriginal Areas Protection Authority, Darwin.
- Aboriginal Communities of the Northern Territory of Australia, 1988. *Traditional Bush Medicines: An Aboriginal Pharmacopoeia*. Northern Territory of Australia.
- Altman, J. and L. Allen, Living off the land in national parks: issues for Aboriginal Australians', in J. Birckhead, T. De Lacy & L. Smith (eds), *Aboriginal Involvement in Parks and protected Areas*. Aboriginal Studies Press, Canberra.
- Altman, J.C. 1987. *Hunter-Gatherers today: an Aboriginal Economy in Northern Australia*, Australian Institute of Aboriginal and Islander Studies, Canberra.
- Amankwah, H.A. 1993. 'Mabo, Extinguishment of Native Title and pastoral leases revisited', in *Aboriginal Law Bulletin* V3 No.63 (Aug. 1993).
- Anderson, C. 1983. 'Aborigines and tin mining in North Queensland: a case study in the anthropology of contact history', in *Mankind*, 13(6):473-98.
- Anderson, C. 1988. 'All Bosses Are Not Created Equal', *Anthropological Forum* 5(4):507-23.
- ANTaR 1999a. Submission by Australians for Native Title and Reconciliation (ANTaR) to the Committee on the Elimination of Racial Discrimination pursuant to their request for information concerning the compatibility of the 1998 native title amendments with Austr
- ANTaR. 1999b. Submission by Australians for Native Title and Reconciliation (ANTaR) to the Senate Legal and Constitutional Legislation Committee inquiry on the provisions of the Aboriginal and Torres Strait Islander Heritage Protection Bill 1998.
- Arndt, W. 1961, 'Indigenous Sorghum as Food and in Myth: the Tagoman Tribe', in *Oceania*, V32 No2:109-112.
- Arndt, W. 1965. 'The Dreaming of Kunukban', in *Oceania*, v35:4:241-58.
- Attwood, B. (ed). 1996. *In the Age of Mabo: History, Aborigines and Australia*. St Leonards.
- Australia. 1999a. Hearing of the Jabiluka uranium mine project reference, Senate Environment, Communications, Information Technology and the Arts References Committee, 16 June 1999. Official Committee Hansard, Canberra.
- Australia. 1999b. *Unlocking the Future: The report of the Inquiry into the Reeves Review of the Aboriginal Land Rights (Northern Territory) Act 1976*, by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, Canberra.
- Australian Bureau of Statistics [ABS]. 1998. *Census of Population and Housing: Aboriginal and Torres Strait Islander People, Northern Territory, 1996 Census*. Australian Government Printing Office, Canberra.
- Australian Heritage Commission [AHC]. 1997. *Policy in Relation to Aboriginal and Torres Strait Islander Peoples and the National Estate*, Australian Heritage Commission, Canberra.
- Australian Heritage Commission [AHC]. 1998. Principles for Australian Heritage Places: revised principles incorporating the Evatt Review recommendations. Australian Heritage Commission, September 1998, Canberra.

- Australian Law Reform Commission. 1986. *Report 31: The Recognition of Aboriginal Customary Laws*, AGPS, Canberra.
- Avery, J. 1993. 'From Preservationism to Land Rights: The Relevance of Land Rights to the Protection of Aboriginal Sacred Sites', in R. Bartlett (ed), *Resource Development and Aboriginal Land Rights*, Centre for Commercial and Resources Law, University of Western A
- Bachelard, M. 1997. *The Great Land Grab: What Every Australian Should Know About Wik, Mabo and the Ten-Point Plan*. Hyland House, South Melbourne.
- Bain, M. S. 1992. *The Aboriginal-White Encounter: Towards Better Communication*. SIL-AAIB, Darwin.
- Baker, L. M. and Mututjulu Community. 1992. 'Comparing two views of the landscape: Aboriginal Traditional Ecological Knowledge and Modern Scientific Knowledge', in *Rangeland Journal*, 14(2) 1992, 174-89.
- Baker, R.M. 1989. *Land is Life: Continuity through change for the Yanyuwa from the Northern Territory of Australia*. PhD thesis, Department of Geography, University of Adelaide.
- Baker, R.M. 1990. 'Coming In? The Yanyuwa as a case study in the geography of contact history.' in *Aboriginal History*, vol 14:25-60.
- Baker, R.M. 1993. 'Traditional Aboriginal land use in the Borroloola Region.' In Williams N and G Baines (eds), *Traditional Ecological Knowledge: wisdom for a sustainable knowledge*. Centre for Resource and Environmental Management, Australian National University, Can
- Baker, R.M. 1999. *Land is Life: From Bush to Town: The story of the Yanyuwa People*. Allen and Unwin, St Leonards NSW.
- Bauman, T. 1986, 'A Report to the Northern Territory Conservation Commission Concerning the Stokes (Kuwang) Range Lookout on the Victoria Highway Associated with Gregory National Park.' Report for the Conservation Commission of the Northern Territory.
- Bauman, T., K. Ackerman & A. Palmer. 1984. *Timber Creek Land Claim Senior Anthropologist's Report*. Northern Land Council, Darwin.
- Beckett, J. R. 1988. 'The past in the present; the present in the past: constructing a national Aboriginality', in J. R. Beckett (ed), *Past and Present: The Construction of Aboriginality*, Aboriginal Studies Press, Canberra.
- Beckett, J. R. 1988. *Past and Present: The Construction of Aboriginality*, Aboriginal Studies Press, Canberra.
- Bell, D. 1983. 'Sacred Sites: The Politics of Protection' in N. Peterson and M. Langton (eds) *Aborigines, Land and Land Rights*. Australian Institute of Aboriginal Studies, Canberra: pp287-298.
- Bell, D. 1983. *Daughters of the Dreaming*, McPhee Gribble/George Allen and Unwin, Sydney.
- Bell, D. 1985. 'The Impact of Resource Development: After Land Rights, What Forgiveness?', *Anthropological Forum*, Vol. V, No. 3, 1984-85:459-63.
- Bennett, T. 1988. *Out of which past? Critical reflections on Australian museum and heritage policy*, Institute for Cultural Policy Studies, Griffith University, Brisbane.
- Berndt, R.M. 1981. 'The Long View: Some Personal Comments on Land Rights', *Australian Institute of Aboriginal Studies Newsletter*, No. 16, Sept. 1981: 3-20.
- Berndt, R.M. 1984. 'Comments on the Aboriginal Land Inquiry, Report by P. Seaman, September 1984', in *Anthropological Forum* Vol. V, No. 3, pp499-501.
- Berndt, R.M. 1987. 'Other creatures in human guise and vice versa: a dilemma in understanding', in M. Clunies-Ross, M.T. Donaldson & S.A. Wild (eds), *Songs of Aboriginal Australia*. Oceania Monograph 32. University of Sydney, Sydney.
- Berndt, R.M. and C.H. 1987. *End of an Era*, Australian Institute of Aboriginal Studies, Canberra.
- Birckhead, J, T. De Lacy, L.J. Smith (eds), 1989. *Aboriginal Involvement in Parks and Protected Areas*. Aboriginal Studies Press, AIATSIS, Canberra.
- Birman, W. 1979. *Gregory of Rainworth: A Man in his Time*, University of Western Australia Press, Nedlands.

- Bleakley, J. 1929. *The Aborigines and Half-castes of Central Australia and North Australia* (1928), Commonwealth of Australia, Government Printer, Melbourne (Parliamentary Paper 21 of 1929).
- Bowman, DJMS, B. A. Wilson, P.L. Wilson, 1988. 'Floristic reconnaissance in the northern portion of Gregory National Park, Northern Territory, Australia', *Journal of the Royal Society of Western Australia*, 70 (3), 1988, 57-67.
- Braddon, R. 1986. *Thomas Baines and the North Australian Expedition*. Collins, Sydney.
- Braithwaite, R.W., nd. Seepage Zones: Keystone Habitats in the wet-dry tropics of Australia. Manuscript.
- Brown, I. 1992. *Keeping the Land Alive: Aboriginal People and Wilderness Protection in Australia*. Environmental Defender's Office, Sydney.
- Brunton, R. 1991a. 'Aborigines and environmental myths: Apocalypse in Kakadu'. *Environmental Background*, No. 4, April. Institute of Public Affairs, Canberra.
- Brunton, R. 1991b. 'The significance of shallow traditions: The Resource Assessment Commission on Aboriginal Interests in Kakadu'. Institute of Public Affairs, Canberra.
- Brunton, R. 1996. 'The Hindmarsh Island Bridge and the Credibility of Australian Anthropology'. *Anthropology Today*, Aug 1996 : 2-7.
- Bulbeck, C. 1991. 'Aborigines, Memorials and the History of the Frontier', in P. Spearritt & J. Rickard (eds) *Packaging the Past? Public Histories*. Melbourne: 168-178.
- Burke, P. 1991. 'Who needs a Community Living Area?: The 'Need' Requirement in N.T. Excisions Legislation', in *Aboriginal Law Bulletin*, Vol.2 No.52:7-9.
- Butler, M. and C. Morgan. 1986. Cooperatively Managed Parks in the Northern Territory: The Evolutionary Process. In B. Foran & B. Walker (eds), *Science and Technology for Aboriginal Development*. CSIRO, Melbourne.
- Carter, P. 1987. *The Road to Botany Bay: an essay in spatial history*. Faber and Faber, London.
- Central Land Council [CLC]. 1996. *Still Our Country: Aboriginal Perspectives on Rangelands Management*. Central Land Council, Alice Springs.
- Central Land Council [CLC]. 1998. Submission HA35 to the Parliamentary Joint Committee on Native Title inquiry on the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.
- Central Land Council, Kimberley Land Council, Northern Land Council, Western Australian Aboriginal Native Title Working Group [CLC et al.]. 1999. General Principles and Summary of Proposed Amendments for Aboriginal and Torres Strait Islander Heritage Protection Bill 1998. November 1999.
- Chase, A. and P. Sutton. 1981. 'Hunter-gatherers in a rich environment: Aboriginal coastal exploitation in Cape York Peninsular', in A. Keast (ed), *Ecological Biogeography in Australia*. W. Junk, The Hague.
- Chase, A. K. 1979. 'Thomson Time', *Aboriginal History*, 3:109-110.
- Christie, M. J. 1985. 'Aboriginal Modes of Behaviour in White Australia', in *The Aboriginal Child at School* 13(5).
- Christie, M. & S. Harris. 1985. 'Communication Breakdown in the Aboriginal Classroom', in J. B. Pride (ed), *Cross-cultural Encounters: Communication and Mis-communication*. River Seine, Melbourne.
- Christie, M. & Perrett, B. 1996. 'Negotiating Resources: Language, Knowledge and the Search for 'Secret English' in Northeast Arnhem Land' in R. Howitt, J. Connell & P. Hirsch (eds). 1996. *Resources, nations and Indigenous peoples: case studies from Australasia, Melanesia and Southeast Asia*, Oxford University Press, Melbourne.
- Christie, M. J. 1991. Aboriginal Science for the Ecologically Sustainable Future. In *Australian Science Teachers Journal*, V37:1:26-31.
- Clarke, J. 1997. *Racial Non-Discrimination Standards and Proposed Amendments to the Native Title Act*. Native Titles Research Unit Issues Papers No. 16, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

- Clifford, J. and G. E. Marcus. 1986. *Writing Culture: the Poetics and Politics of Ethnography*, University of California Press, Berkley.
- Clune, F. 1947. *Roaming Around Australia*, Hawthorn Press, Melbourne.
- Clunies-Ross, M. 1987. 'Research into Aboriginal songs: the state of the art', in M. Clunies-Ross, M.T. Donaldson & S.A. Wild (eds), *Songs of Aboriginal Australia*. Oceania Monograph 32. University of Sydney.
- Clunies-Ross, M., T. Donaldson, S.A. Wild (eds). 1987. *Songs of Aboriginal Australia*. Oceania Monograph 32. University of Sydney.
- Collmann, J. 1988. *Fringe Dwellers and Welfare: the Aboriginal response to bureaucracy*. University of Queensland Press, St Lucia.
- Combined Aboriginal Nations of Central Australia. 1998. *The Kalkaringi Statement*, Statement from the Combined Aboriginal Nations of Central Australia Constitutional Convention 17-20 August 1998.
- Coombs, H.C., H. McCann, H. Ross and N.M. Williams, 1989, *Land of Promises: Aborigines and Development in the East Kimberley*, CRES, Australian National University, and Aboriginal Studies Press, Canberra.
- Cooper, D & D. B. Rose, 1986, 'A Compendium of Aboriginal Botanical Resources of the Victoria River District.' Unpublished draft report to the Australian Institute of Aboriginal Studies, Canberra.
- Cooper, D. and S. Jackson. 1993. 'Coronation Hill Pay-back: the case of McArthur River', *Arena* October-November 1993: 19-23.
- Cosgrove, D. E. & S. J. Daniels (eds). 1988. *The Iconography of Landscape: essays on the symbolic representation, design and use of past landscapes*. Cambridge University Press, Cambridge.
- Council for Aboriginal Reconciliation. 1993. *Exploring Common Ground: Aboriginal Reconciliation and the Australian Mining Industry*, Australian Government Printing Service, Canberra.
- Council for Aboriginal Reconciliation. 1995. *Going Forward: Social Justice for the First Australians: A Submission to the Commonwealth Government*, National Capital Printing, Canberra.
- Cowlshaw, G. 1988. *Black, White or Brindle: race in rural Australia*. Cambridge University Press, Sydney.
- Cowlshaw, G. 1990. Where Is Racism? Contemporary Race Relations. *Journal for Social Justice Studies*, Vol 3, 1990 : 50-60.
- Cowlshaw, G. 1993. Introduction: Representing Racial Issues. *Oceania*, Vol 63 No 3 : 183-194.
- Cowlshaw, G. & B. Morris (eds). 1997. *Race Matters*, Aboriginal Studies Press, Canberra
- Cowlshaw, G. and B. Morris (eds). 1997. *Race Matters*, Aboriginal Studies Press, Canberra.
- Crawford, I.M. 1982. *Traditional Aboriginal Plant Resources in the Kalumburu Area: Aspects in Ethno-Economics*. Western Australian Museum, Perth.
- Cumming, G. 1995. 'Indigenous Participation', in *In Place: A Cultural Heritage Bulletin*. First Issue, 1995. Australian Heritage Commission, Canberra: pp4-6.
- Davies, J. & E. Young. 1996. 'Taking Centre Stage: Aboriginal Strategies for Redressing Marginalisation', in R. Howitt, J. Connell & P. Hirsch (eds), *Resources, nations and Indigenous peoples: case studies from Australasia, Melanesia and Southeast Asia*. Oxford University Press,
- Davison, G. and C. McConville (eds). 1991. *A Heritage Handbook*. Allen and Unwin, Sydney
- Diamond, S. 1974. *In Search of the Primitive: A Critique of Civilization*. Transaction Books, New Brunswick, N.J.
- Dixon, R.A. & M.C. Dillon. 1990. *Aborigines and Diamond Mining: the politics of resource development in the East Kimberleys, Western Australia*. University of Western Australia Press, Nedlands.
- Dixon, R.M.W., W.S. Ramson and M. Thomas. 1990. *Australian Aboriginal Words in English: Their Origins and Meaning*, OUP, Melbourne.
- Docker, E.G.. 1964. *Simply Human Beings*, Jacaranda Press, Brisbane.

- Dodson, M. 1995a. *Native Title Report Jan-Jul 1994*. Report of the Aboriginal and Torres Strait Islander Social Justice Commissioner to the Attorney General.
- Dodson, M. 1995b. *Indigenous Social Justice*, Submission to the Parliament of the Commonwealth of Australia by the Aboriginal and Torres Strait Islander Social Justice Commissioner, April 1995.
- Dodson, M. 1996a. 'Land Rights and Social Justice', in G. Yunupingu (ed), *Our Land is Our Life - Past, Present and Future*. University of Queensland Press. Pp 39-51.
- Dodson, M. 1996b. *Native Title Report, July 1995-June 1996*. Report of the Aboriginal and Torres Strait Islander Social Justice Commissioner to the Attorney General.
- Dodson, M. 1996c. 'Power and Cultural Difference in Native Title Mediation', *Aboriginal Law Bulletin* 3(84):8-11.
- Dodson, M. and S. Pritchard. 1998. 'The Abandonment of Self-Determination?', *Indigenous Law Bulletin*, Oct 1998, Vol.4, Issue 15, pp4-6.
- Doolan, J.K. 1977. Walk-off (and later return) of Various Aboriginal Groups from Cattle Stations: Victoria River District', in R.M. Berndt (ed) *Aborigines and Change*, Australian Institute of Aboriginal Studies, Canberra.
- Doolan, J.K. nd. Personal collection of documents circa 1972/73 relating to Department of Aboriginal Affairs, Northern Territory Division. Held by the Aboriginal Areas Protection Authority, Darwin.
- Duncan, J. 1993. 'Landscapes of the self / landscapes of other(s): cultural geography 1991-92' in *Progress in Human Geography* 17:367-77.
- Durack, M. 1974. [1959]. *Kings in Grass Castles*. Lloyd O'Neil, Hawthorn.
- Durack, M. 1985. [1983]. *Sons in the Saddle*. Corgi, London.
- Durack, M. and E. Durack. 1940 [1935]. *All-about: the story of a Black Community on Argyle Station*. Perth.
- Durack, R. 1987. Transcript of interview. NTRS 226 TS452.
- Eades, D. 1982. 'You Gotta Know How to Talk...information Seeking in South-East Queensland Aboriginal Society', *Australian Journal of Linguistics*, 2(1):61-82.
- Eades, D. 1984. 'Misunderstanding Aboriginal-English: the role of socio-cultural context', in McKay G. R. and B. A. Sommer (eds), *Further Applications of Linguistics to Australian Aboriginal Contexts*, Applied Linguistics Association of Australia. Pp24-33.
- Eades, D. 1988. 'They don't speak an Aboriginal language, or do they?' in I. Keen (ed), *Being Black: Aboriginal cultures in settled Australia*, Aboriginal Studies Press, Canberra.
- Eades, D. 1991. 'Communication strategies in Aboriginal English', in Suzanne Romaine (ed), *Language in Australia*. Cambridge University Press, Cambridge.
- Eades, D. 1992. *Aboriginal English and the Law*. Queensland Law Society.
- Edmunds, M. 1989. *They Get Heaps: A study of Attitudes in Roebourne, Western Australia*. Aboriginal Studies Press, Canberra.
- Edmunds, M. (ed). 1998. *Regional Agreements: Key Issues in Australia, volume 1*. Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Edwards, R. 1975. *The Preservation of Australia's Aboriginal Heritage*, Report on the National Seminar on Aboriginal Antiquities in Australia, Canberra, 1972. Australian Institute of Aboriginal Studies, Canberra.
- Edwards, W. H. 1988. *Traditional Aboriginal Society*. Aboriginal Studies Press, Canberra.
- Elkin, A.P. 1951. 'Reaction and interaction: a food gathering people and European settlement in Australia', *American Anthropologist*, 53(2):164-86.
- Ellis, B. 1994a. *"Shake 'im This Country": Sacred Sites and the Coronation Hill Dispute*. M.A. Thesis (Cultural Policy), Faculty of Humanities, Griffith University, Brisbane.
- Ellis, B. 1994b. Rethinking the Paradigm: Cultural Heritage Management in Queensland. *Ngulaig 10*. Aboriginal and Torres Strait Islander Studies Unit, University of Queensland, Brisbane.
- Ellis, R.W. 1975. 'South Australia' in R. Edwards (ed), *The Preservation of Australia's Aboriginal Heritage, Report on the National Seminar on Aboriginal Antiquities in Australia*, Canberra, 1972. Australian Institute of Aboriginal Studies, Canberra: pp7-10.

- Evatt, Hon Elizabeth. 1996. Review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.
- Fabian, J. 1983. *Time and the Other: How Anthropology makes its Object*. Columbia University Press, New York.
- Finlayson, J. 1991. *Australian Aborigines & Cultural Tourism: Case Studies of Aboriginal Involvement in the Tourist Industry*. Working Papers on Multiculturalism No.15, Centre of Multicultural Studies, University of Wollongong, Wollongong.
- Finlayson, J. & A. Jackson-Nagano (eds). 1996. *Heritage and Native Title: Anthropological and Legal Perspectives*. Australian Anthropological Society and the Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Fletcher, J. 1986. Keep River Planning - Zoning and Site Clearance . Report for the Aboriginal Sacred Sites Protection Authority, Darwin.
- Foran, B and B. Walker (eds), 1986. *Science and technology for Aboriginal development in Central Australia*. CSIRO, Melbourne.
- Foucault, M. 1983. 'The Subject and Power', In Dreyfus, Hubert L. and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics*. University of Chicago Press, Chicago. Pp 208-226.
- Foucault, M. 1972. *The Archaeology of Knowledge*. Tavistock, London.
- Fourmile, H. 1992. The Need for an Independent National Inquiry into State Collections of Aboriginal and Torres Strait Islander Cultural Heritage. *Aboriginal Law Bulletin*, Vol.2 No.56 June 1992 : 3-4.
- Gelder, K. 1992. 'Hidden Histories, new (age) anthropologies', in *Island*, Spring 1992:52-56.
- Gelder, K. and J.M. Jacobs, 1998. *Uncanny Australia: Sacredness and Identity in a Postcolonial Nation*. Melbourne University Press, Melbourne.
- Gerritson, R. 1982. 'Blackfellas and Whitefellas: The politics of service delivery to remote Aboriginal communities in the Katherine region'. In P. Loveday (ed) *Service Delivery to Remote Communities*, North Australia Research Unit, Australian National University, Canbe
- Gibson, S. 1994. "'This Rock is Sacred": The Northern Territory Government and the Handback of Uluru (Ayers Rock-Mount Olga) National Park', Thesis submitted in fulfillment of a Graduate Diploma (History), Northern Territory University, Darwin.
- Gill, N. 1997. 'The contested domain of pastoralism: landscape, work and outsiders in Central Australia', in D. B. Rose and A. Clarke (eds), *Tracking Knowledge in North Australian Landscapes: studies in Indigenous and settler ecological knowledge systems*. North Au
- Goffman, E. 1969. *Strategic Interaction*. University of Pennsylvania Press, Philadelphia.
- Goffman, E. 1969. *Where the Action Is*. Allen Lane The Penguin Press, London.
- Goldflam, R. 1995. 'Between a Rock and a Hard Place: The Failure of Commonwealth Sacred Sites Protection Legislation', *Aboriginal Law Bulletin*, 3(74):13-14.
- Goldflam, R. 1997. 'Noble Salvage: Aboriginal Heritage Protection and the Evatt Review', *Aboriginal Law Bulletin*, 3(88):4-8.
- Goodale, J.C. 1982. Production and reproduction of key resources among the Tiwi of North Australia. In N.M. Williams (ed), *Resource Managers: North American and Australian Hunter-Gatherers*. AIAS, Canberra.
- Greer, S. and R. Henry, 1996. 'Politics of Heritage: The Case of the Kuranda Skyrail'. Paper presented at the AAS/AiATSIS Native Title Workshop, 14 Feb., Canberra
- Gregory, A.C. & F.T. Gregory. 1884 [1969]. *Journals of Australian Explorations*, Government Printer, Brisbane.
- Griffiths, T. & L. Robin (eds). 1997. *Ecology and Empire: environmental history of settler societies*. University of Washington Press, Seattle, Washington.
- Griffiths, T. 1997. 'Introduction', in T. Griffiths & L. Robin (eds). 1997. *Ecology and Empire: environmental history of settler societies*. University of Washington Press, Seattle, Washington.
- Gumbert, M. 1981. *Neither Justice Nor Reason: A Legal and Anthropological Analysis of Aboriginal Land Rights*, University of Queensland Press, St Lucia.

- Hamilton, A. 1972. 'Blacks and Whites: the relationships of change', *Arena*, 30:34-48.
- Hancock, N. 1996. 'Is this the Spanish Inquisition?': Legal procedure, traditional secrets and the public interest', in J. Finlayson & A. Jackson-Nagano (eds), *Heritage and Native Title: Anthropological and Legal Perspectives*, Australian Anthropological Society and the Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Hardy, F. 1968. *The Unlucky Australians*, Thomas Nelson, Melbourne.
- Harkins, J. 1994. *Bridging Two Worlds: Aboriginal English and Crosscultural Understanding*. University of Queensland Press, St Lucia.
- Harris, J. W. 1991. 'Kriol - the creation of a new language', in Suzanne Romaine (ed), *Language in Australia*. Cambridge University Press, Cambridge.
- Harris, M. 1996. 'Scientific and Cultural Vandalism'. *Alternative Law Journal*, Vol.21 No.1 February 1996 : 28-32.
- Harris, S. 1977. 'Yolngu Rules of Interpersonal Behaviour', *Developing Education* 4(5).
- Harris, S. 1980. *Culture and Learning: Tradition and Education in Northern Arnhem Land*, Northern Territory Department of Education, Darwin.
- Harris, S. 1990. *Two-Way Aboriginal Schooling: Education and Cultural Survival*. Aboriginal Studies Press, Canberra.
- Harris, S. 1991. 'Reply to McConvell's two-way blind alley paper', in *Australian Aboriginal Studies* 1991 No. 2: 19-25.
- Head, L. 1993. 'Unearthing prehistoric cultural landscapes: a view from Australia', in *Transactions of the Institute of British Geographers* 18:481-499.
- Head, L. 1994. 'Aborigines and Pastoralism in North-Western Australia: Historical and Contemporary Perspectives on Multiple Use of the Rangelands', in *Rangeland Journal* 16(2):167-83.
- Head, L. 1999. 'The Northern Myth Revisited? Aborigines, environment and agriculture in the Ord River Irrigation Scheme, Stages one and Two', in *Australian Geographer*, 30(2):141-158.
- Head, L. and R. Fullagar. 1991. 'We all la one land': pastoral excisions and Aboriginal resource use', in *Australian Aboriginal Studies*, 1991 no.1, 39-52.
- Hiatt, L. 1988. 'Aboriginal Political Life', in W. H. Edwards (ed), *Traditional Aboriginal Society*. Aboriginal Studies Press, Canberra: pp 174-188.
- Hiatt, L. R. & R. Jones. 1990. 'Aboriginal conceptions of the workings of nature', In *Australian Science in the Making*. pp1-22.
- Hirsch, E. 1995. 'Introduction: Landscape: Between Place and Space', in Hirsch, E. and M. O'Hanlon (eds). *The Anthropology of Landscape: perspectives on place and space*. Clarendon Press, Oxford.
- Hirsch, E. & M. O'Hanlon (eds). 1995. *The Anthropology of Landscape: perspectives on place and space*. Clarendon Press, Oxford.
- Hirst, J. B. 1992. 'The Pioneer Legend', in G. Whitlock and D. Carter (eds), *Images of Australia*, University of Queensland Press, Brisbane.
- Howitt, R. 1991. 'Aborigines and Restructuring in the Mining Sector: Vested and Representative Interests' in *Australian Geographer* 22(2), November 1991: 117-119.
- Howitt, R. 1993. 'Social impact assessment as applied people's geography', *Australian Geographical Studies* 31: 127-40.
- Howitt, R. 1995. *Developmentalism, impact assessment and Aborigines: rethinking regional narratives at Weipa*. Discussion Paper No. 24, North Australia Research Unit, Darwin.
- Howitt, R. 1997. 'Getting the Scale Right: The Geopolitics of Regional Agreements'. *Northern Analyst*. Issue No. 2. North Australia Research Unit, Darwin.
- Howitt, R. & S. Jackson. 1998. 'Some Things Do Change: Indigenous rights, geographers and geography in Australia'. *Australian Geographer* 29(2): 155-173.
- Howitt, R., J. Connell & P. Hirsch (eds). 1996. *Resources, nations and Indigenous peoples: case studies from Australasia, Melanesia and Southeast Asia*, Oxford University Press, Melbourne.

- Hughes, C. 1994. One Land: Two Laws. Fire Management in the Northern Territory of Australia. *Environment and Planning Law Journal*, June 1994.
- Hunn, E. 1993. 'The Ethnobiological Foundations for TEK', in Williams, N. M. & G. Baines (eds), *Traditional Ecological Knowledge: Wisdom for Sustainable Development*. Centre for Resource and Environmental Studies, ANU, Canberra.
- Jackson, P. 1992. *Maps of Meaning: An introduction to cultural geography*, Unwin Hyman, London.
- Jackson, P. & J. Penrose (eds) 1993. *Constructions of race, place and nation*. University College London Press, London.
- Jackson, S. 1997. 'Land Use Planning and Cultural Difference', in D.B. Rose and A. Clarke (eds), *Tracking Knowledge in North Australian Landscapes: Studies in Indigenous and Settler Ecological Knowledge Systems*, North Australia Research Unit, Darwin:87-104.
- Jackson, S. 1998. *Geographies of Coexistence: native title, cultural difference and the decolonisation of planning in north Australia*, unpublished PhD thesis submitted to the School of Earth Sciences, Macquarie University, Sydney.
- Jacobs, J. & F. Gale. 1994. *Tourism and the Protection of Aboriginal Cultural Sites*. Australian Government Printing Office, Canberra.
- Jacobs, J.M. 1988. 'The Construction of Identity', in J.R. Beckett (ed), *Past and Present: The Construction of Aboriginality*. Aboriginal Studies Press, Canberra: 31-43.
- Jacobs, J.M. 1993. "'Shake 'im this Country': The mapping of the Aboriginal sacred in Australia - the case of Coronation Hill'. In Jackson, P. and J. Penrose (eds), *Constructions of race, place and nation*. pp100-118.
- Jacobs, J.M. 1996. *The Edge of Empire: Postcolonialism and the city*. Routledge, London.
- James, R. 1993. 'The Political Iconography of Aboriginality', *Oceania*, 63:207-21.
- Johns, Gary 1998. 'False assumptions: why Kim Beazley is wrong on Wik', opinion piece in *The Age*, 23 March 1998.
- Jonas, W. 1994. *Consultation with Aboriginal People about Aboriginal Heritage*, Australian Government Publishing Service, Canberra.
- Jones, R. 1991. Landscapes of the Mind: Aboriginal perceptions of the natural world. In *The Humanities and the Australian Environment*. Australian Academies of Humanities symposium, proceedings. pp21-48.
- Kaberry, P.M. 1939. *Aboriginal Woman: Sacred and Profane*. London. Routledge and Sons.
- Keatley, H. 1994. Cultural Diversity Versus Biodiversity. In *Adelaide Law Review* 16:99-160.
- Keefe, K. 1992. *From the Centre to the City: Aboriginal Education, Culture and Power*. Aboriginal Studies Press, Canberra.
- Keen, I. 1984. 'A Question of Interpretation: the Definition of 'Traditional Aboriginal Owners' in the Aboriginal Land Rights (NT) Act, in L. Hiatt (ed), *Aboriginal Landowners: Contemporary Issues in the Determination of Traditional Land Ownership*, Oceania (Univer
- Keen, I. & F. Merlan. 1990. *The significance of the conservation zone to Aboriginal people*. Resource Assessment Commission, Kakadu Conservation Zone Inquiry Consultancy Series. Australian Government Printing Service, Canberra.
- Keen, I. (ed). 1988. *Being Black: Aboriginal Cultures in "Settled" Australia*, Aboriginal Studies Press, Canberra.
- Koch, H. 1985. 'Nonstandard English in an Aboriginal Land claim', in J. B. Pride (ed), *Cross-cultural Encounters: Communication and Miscommunication*. River Seine Publications, Melbourne, pp176-95.
- Kolig, E. 1987. *The Noonkanbah Story: Profile of an Aboriginal community in Western Australia*, University of Otago Press, Dunedin.
- Kolig, E. 1981. *The Silent Revolution: The effects of modernisation on Australian Aboriginal Religion*. Institute for the Study of Human Issues, Philadelphia.
- Kuldeep, B. & P. Anderson. 1995. *An overview of Aboriginal and Torres Strait Islander health: present status and future trends*. Australian Institute of Health and Welfare Information Paper. Australian Government Printing Office, Canberra.

- Langton, M. 1993. 'Rum, Seduction and death: 'Aboriginality' and alcohol'. *Oceania*, Vol 63 No 3 : 195-206.
- Langton, M. 1996. 'Art, Wilderness and terra nullius', *Ecopolitics IX: Conference Papers and Resolutions*. Northern Land Council, Darwin.
- Langton, M. 1997. 'Rum, Seduction and death: 'Aboriginality' and alcohol', in Cowlshaw, G. and B. Morris (eds), *Race Matters*, Aboriginal Studies Press, Canberra, pp77-94.
- Langton, M. 1998. *Burning Questions: Emerging environmental issues for Indigenous people in northern Australia*. Centre for Indigenous Natural and Cultural Resource Management, Northern Territory University, Darwin.
- Langton, M. 1998. *Burning Questions: emerging environmental issues for Indigenous people in Northern Australia*. Centre for Indigenous Natural and Cultural Resource Management, Northern Territory University, Darwin.
- Larbalestier, J. 1990. 'Amity and Kindness in the Never-Never: Ideology and Aboriginal-European Relations in the Northern Territory'. *Social Analysis* 27:70-82.
- Lattas, A. 1990. 'Aborigines and Contemporary Australian Nationalism: Primordality and the Cultural Politics of Otherness', in J. Markus (ed) *Writing Australian Culture*. *Social Analysis* Special Issue Series No. 27, April 1990.
- Lattas, A. 1993. 'Essentialism, memory and resistance: Aboriginality and the politics of authenticity'. *Oceania*, V63 No3 : 240-67.
- Latz, P. and K. Johnson. 1986. Nature Conservation in Aboriginal land. In *Science and Technology for Aboriginal Development*. B. Foran & B. Walker (eds), pp . Melbourne.
- Layton, R. 1995. 'Relating to the Country in the Western Desert', in E. Hirsch and M. O'Hanlon (eds) *The Anthropology of Landscape: perspectives on place and space*. Clarendon Press, Oxford.
- Ledgar, R. 1986. 'The Pastoral Industry on Aboriginal Land: Its Impact; Its Legacy: The Future?' in B. Foran & B. Walker (eds), *Science and Technology for Aboriginal Development*. Melbourne.
- Lee, B. 1963. 'Gregory's Tree', *Australian Territories* 3(5):20-25.
- Legislative Council of the Northern Territory. 1965. *Report from the Select Committee on the Native and Historical Objects and Areas Preservation Ordinance 1955-60*, Government Printer, Darwin.
- Lewis, D. 1997. *A Shared History: Aboriginal and white Australians in the Victoria River District, Northern Territory*. Produced on behalf of the Timber Creek Community Government Council. Create-a-Card, Darwin.
- Lewis, H.T. 1992. The Technology and ecology of nature's custodians: anthropological perspectives on Aborigines and national parks. In J. Birkhead, T. De Lacy & L. Smith (eds), *Aboriginal Involvement in Parks and protected Areas*. Canberra.
- Liberman, K. 1985. *Understanding Interaction in Central Australia: An Ethnomethodological Study of Australian Aboriginal People*, Routledge & Keegan Paul, Melbourne.
- Loos, N. 1979. *Invasion and Resistance*. ANU Press, Canberra.
- Lowenthal, D. 1985. *The Past is a Foreign Country*. Cambridge University Press, Cambridge.
- Lowenthal, D. 1997. 'Empires and Ecologies: reflections on environmental history', in T. Griffiths & L. Robin (eds). 1997. *Ecology and Empire: environmental history of settler societies*. University of Washington Press, Seattle, Washington:229-236.
- M. Clunies-Ross, M.T. Donaldson & S.A. Wild (eds), 1987. *Songs of Aboriginal Australia*. Oceania Monograph 32. University of Sydney.
- Macleod, C. 1997. *Patrol in the Dreamtime*, Mandarin, Kew.
- Maddock, K. 1991. 'Metamorphosing the Sacred in Australia', *Australian Journal of Anthropology*, 1991 2:2:213-32.
- Makin, J. 1983. *The Big Run: the story of Victoria River Downs*, (2nd edition), Rigby, Adelaide.
- Marika, W. 1975. 'Statement on Sacred Sites' in R. Edwards (ed), *The Preservation of Australia's Aboriginal Heritage, Report on the National Seminar on Aboriginal Antiquities in Australia*, Canberra, 1972. Australian Institute of Aboriginal Studies, Canberra: pp237-
- Markus, A. 1994. *Australian Race Relations*. Allen and Unwin, St Leonards.

- McConvell, P. 1985. The Origin of Subsections in Northern Australia. In *Oceania*, V56 No. 1:1-25.
- McConvell, P. 1988. 'Mix-im-up Aboriginal Code-Switching', in M. Heller (ed), *Codeswitching: Anthropological and Linguistic Perspectives*. Mouton de Gruyter, Berlin.
- McConvell, P. 1991. 'Understanding Language Shift: a step towards language maintenance', in Suzanne Romaine (ed), *Language in Australia*. Cambridge University Press, Cambridge.
- McDonald, R.C., R.F. Isbell, J.G. Speight, J. Walker and M.S. Hopkins. 1984. *Australian Soil and Land Survey Field Handbook*. Inkata Press. Melbourne.
- McGrath, A. 1983. *We Grew Up the Stations: Europeans, Aborigines and Cattle in the Northern Territory*. PhD thesis, Department of History, Latrobe University.
- McGrath, A. 1987. *Born in the Cattle*, Allen and Unwin, Sydney.
- McGrath, A. 1988. 'Born or Reborn in the Cattle?', in *Meanjin* 2/1988:171-177.
- McGrath, A. (ed). 1995. *Contested Ground: Australian Aborigines Under the British Crown*. Allen and Unwin, St Leonards NSW.
- Merlan, F. 1978. 'Making people quiet' in the Pastoral North: Reminiscences of Elsey Station', *Aboriginal History*, 2:70-106.
- Merlan, F. 1982. 'A Mangarrayi representational system: environment and cultural symbolisation in northern Australia', *American Ethnologist*, 9(1):145-166.
- Merlan, F. 1989. 'The Objectification of 'Culture': An Aspect of Current Political Process in Aboriginal Affairs', in *Anthropological Forum* Vol. VI, No. 105-116.
- Merlan, F. 1991a. 'The Limits of Cultural Constructionism: the case of Coronation Hill'. *Oceania*, 61: 341-52.
- Merlan, F. 1991b. 'The Regimentation of Customary Practice: From Northern Territory Land Claims to Mabo'. *The Australian Journal of Anthropology*, 6: 1&2: 64-82.
- Merlan, F. 1994a. 'Narratives of survival in the post-colonial north', *Oceania* 65(2):151-74.
- Merlan, F. 1994b. 'Entitlement and Need: Concepts Underlying and in Land Rights and Native Title Acts'. In M. Edmunds (ed), *Claims to Knowledge, Claims to Country: Native Title, Native Title Claims and the Role of the Anthropologist*, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.
- Merlan, F. 1995. 'The Regimentation of Customary Practice: From Northern Territory Land Claims to Mabo', in *The Australian Journal of Anthropology*, Volume 6, Issue 3, pages 64-82, December 1995.
- Merlan, F. 1997. 'Fighting Over Country: Four Commonplaces', in D.E. Smith and J. Finlayson (eds), *Fighting Over Country: Anthropological Perspectives*, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra: 1-14.
- Merlan, F. 1998. *Caging the Rainbow: Places, Politics and Aborigines in a North Australian Town*, University of Hawaii Press, Honolulu.
- Michaels, E. 1985. 'Constraints on Knowledge in an Economy of Oral Information', *Current Anthropology*, Vol. 26(4):505-510.
- Michaels, E. 1986. *The Aboriginal Invention of Television in Central Australia 1982-1986*. AIAS, Canberra.
- Morphy, H. 1983. 'Now you understand': An Analysis of the Way Yolngu Have Used Sacred Knowledge to Retain Their Autonomy', in N. Peterson and M. Langton (eds), *Aborigines, Land and Land Rights*, Australian Institute of Aboriginal Studies, Canberra: 110-33.
- Morphy, H. 1990. 'Myth, Totemism and the Creation of Clans', in *Oceania* 60:312-328.
- Morphy, H. 1993. 'Colonialism, History and the Construction of Place: The Politics of Landscape in Northern Australia', in B. Bender (ed), *Landscape: Politics and Perspectives*, Providence: Berg.
- Morphy, H. 1995. 'Landscape and the Reproduction of the Ancestral Past', in E. Hirsch and M. O'Hanlon (eds), *The Anthropology of Landscape: perspectives on place and space*. Clarendon Press, Oxford.
- Morphy, H. & F. 1984. 'The "Myths" of Ngalakan History: Ideology and Images of the Past in Northern Australia', in *Man*, 19(3):459-78.

- Morris, B. 1989. *Domesticating Resistance: The Dhan-Gadi and the Australian State*. Oxford, Berg.
- Morris, B. 1990. Racism, egalitarianism and Aborigines. In *Contemporary Race Relations in Australia. Journal for Social Justice Studies*, Vol. 3, 1990 : 61-73.
- Morris, B. 1992. 'Frontier Colonialism as a Culture of Terror', in B. Attwood & J. Arnold (eds), *Power, Knowledge and Aborigines*. Victoria, Australia: La Trobe.
- Morris, E. 1990. *"Like the bends in an old tree"? Aboriginal Workers and White Pastoralists On Victoria River Downs Station, 1930-1965*, BA (Hons) thesis, Australian National University, Canberra.
- Morton, J. 1987. 'Singing subjects and sacred objects: More on Munn's 'Transformation of Subjects into Objects' in Central Australian Myth', *Oceania*, V57:304-13.
- Morton, J. 1989. 'Singing Subjects and Sacred Objects: A psychological interpretation of the 'Transformation of Subjects into Objects' in Central Australian Myth', *Oceania*, V59 (1989):280-97.
- Muecke, S. 1992. *Textual Spaces: Aboriginality and Cultural Studies*. New South Wales University Press, Sydney.
- Muir, K. 1998. *"This Earth Has an Aboriginal Culture Inside": Recognising the Cultural Value of Country*. Issues paper no. 23, Native Title Research Unit, AIATSIS, Canberra.
- Mulvaney, M. 1997. "Relationships with Land: Managing cultural landscapes in NSW national parks." Unpublished Master of Science thesis, Australian National University, Canberra.
- Munn, N. D. 1970. 'The Transformation of Subjects into Objects in Walbiri and Pitjantjatjara Myth', in R. M. Berndt (ed), *Australian Aboriginal Studies*, AIAS. University of Western Australia Press.
- Munn, N. D. 1973. *Walbiri Iconography: Graphic Representation and Cultural Symbolism in a Central Australian Society*. Ithica. Cornell University Press.
- Murphy, J. 1986. 'The Voice of Memory: History, Autobiography and Oral Memory', in *Historical Studies*, Vol. 22, No. 87:157-175.
- Myers, F. R. 1980.
- Myers, F. R. 1982. 'Always Ask: Resource Use and Land Ownership among Pintupi Aborigines of the Australian Western Desert', in Williams, N. and E. Hunn (eds), *Resource Managers: North American and Australian Hunter-Gatherers*. A.I.A.S. Canberra.
- Myers, F. R. 1986. *Pintupi Country, Pintupi Self: Sentiment, Place, and Politics among Western Desert Aborigines*. Smithsonian Institution Press, Washington.
- National Indigenous Working Group. 1997. *Coexistence - Negotiation and Certainty: Indigenous position in response to the Wik decision and the Government's proposed amendments to the Native Title Act, 1993*. NIWG, Canberra.
- Ngabidj, G. 1981. *My Country of the Pelican Dreaming: the life of an Australian Aboriginal of the Gadgerong, Grant Ngabidj, 1904-1977*, as told to Bruce Shaw. AIAS, Canberra.
- Nordstrom C. and J. Martin (eds). 1992. *Paths to Domination, Resistance and Terror*. University of California Press, Berkley.
- Northern and Kimberley Land Councils. 1997. *Native Title, Pastoral Leases and Models for Co-Existence*. Discussion paper by the Northern Land Council and the Kimberley Land Council. January, 1997.
- Northern Land Council [NLC]. 1984. 'Timber Creek Land Claim - Sites of Significance and Locality Names Site List', Northern Land Council, Darwin.
- Northern Land Council [NLC]. 1989. Aboriginal Utilisation of the Natural World at Timber Creek. Submission NLC26 for the Stokes Range (Ngaliwurrurru) Land Claim, prepared by Kim Akerman and Toni Bauman. Northern Land Council, Darwin.
- Northern Land Council [NLC]. 1989. Bilinara (Coolibah-Wave Hill Stock Route) Land Claim Senior Anthropologists' Report, Darwin.
- Northern Land Council [NLC]. 1992. *Fitzroy (Nungali/Ngaliwurrurru) Land Claim Senior Anthropologist's Report*. Darwin.
- Northern Land Council [NLC]. 1992. *Fitzroy (Nungali/Ngaliwurrurru) Land Claim*. Northern Land Council, Darwin.

- Northern Land Council [NLC]. 1998. Submission HA31 to the Parliamentary Joint Committee on Native Title inquiry on the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.
- Northern Territory Cattlemen's Association [NTCA]. 1998a. Submission HA28 to the Parliamentary Joint Committee on Native Title inquiry on the Aboriginal and Torres Strait Islander Heritage Protection Act 1984.
- Northern Territory Cattlemen's Association [NTCA]. 1998b. 'Evidence to the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund inquiry on the Aboriginal and Torres Strait Islander Heritage Protection Act 1984'. Joint Committee Native Title, Proof Committee
- Northern Territory Land Councils. 1986. *Refugees in Their Own Country: 5000 people with nowhere to live*, Pamphlet by the Tiwi, Northern and Central Land Councils, Darwin.
- Northern Territory Parks and Wildlife Commission [NTPWC]. 1998. *Northern Territory Parks Masterplan*. Government Printer, Darwin.
- O'Faircheallaigh, C. 1998. *Process, Politics and Regional Agreements*, Regional Agreements paper no. 5, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Ogden, P. 1989. *Bradshaw via Coolibah: The History of Bradshaw's Run and Coolibah Station*. Historical Society of the Northern Territory, Darwin.
- Palmer, K. 1991. *Aborigines, values and the environment*. Australian Aboriginal and Torres Strait Islander Studies Fundamental Questions Paper No. 7. Centre for Resource and Environmental Studies, Canberra.
- Palmer, K. and N. Williams, 1990. Aboriginal Relationships to Land in the Southern Blatchford Escarpment Area of the East Kimberleys. In *Aborigines and Diamond Mining: the Politics of Resource Development in the East Kimberley, W.A.* pp5-28
- Pannell, S. 1994. 'Mabo and Museums: 'The Indigenous (Re)Appropriation of Things'', *Oceania* 65:18-39.
- Pearson, N. 1993. From remnant title to social justice. *Australian Journal of Anthropology*, Vol6 Nos 1-2 1995 : 95-100.
- Perry, R.A. 1970. Vegetation of the Ord-Victoria Area. In *Lands of the Ord-Victoria area, WA and NT*. CSIRO Land Research Series No 28, pp104-19.
- Peterson, N. 1976. *Tribes and Boundaries in Australia*, Australian Institute of Aboriginal Studies, Canberra.
- Peterson, N. 1985. 'Capitalism, Culture and Land Rights - Aborigines and the State in the Northern Territory', in *Social Analysis*, December, 85-101.
- Peterson, N. and M. Langton (eds). 1993. *Aborigines, Land and Land Rights*. AIAS, Canberra.
- Povinelli, E. A. 1992. "'Where We Gonna Go Now': Foraging Practices and Their Meaning Among the Belyuen Australian Aborigines', *Human Ecology*, V20 No. 20, 1992, pp169-202.
- Povinelli, E. A. 1993. "'Might be Something': the Language of Indeterminacy in Australian Aboriginal Land Use', *Man* 28:679-704.
- Povinelli, E. A. 1993. *Labor's Lot: The Power, History and Culture of Aboriginal Action*. Chicago: University of Chicago Press.
- Price, M. and M. Lewis. 1993. 'Reinventing cultural geography', *Annals of the Association of American Geographers* 83:1-17.
- Pride, J. B. (ed). 1985. *Cross-cultural Encounters: Communication and Mis-communication*. River Seine, Melbourne.
- Rabinow, P. 1986. 'Representation are Social Facts: Modernity and Post-Modernity in Anthropology', in Clifford, J. and G. E. Markus (eds), *Writing Culture: the Poetics and Politics of Ethnography*, University of California Press, Berkley.
- Read, P. 1992. 'Unearthing the Past is Not Enough', in *Island*, Spring 1992:49-53.
- Read, P. 1996. *Returning to Nothing: the meaning of lost places*, Cambridge University Press, Melbourne.

- Read, P. & J. Read. 1991. *Long Time Olden Time: Aboriginal Accounts of Northern Territory History*. Institute for Aboriginal Development, Alice Springs.
- Reece, B. 1984. 'Prisoners in their Own Country: Aborigines in Western Australian Historical Writing', in Bob Reece and Tom Stannage (eds), *European-Aboriginal Relations in Western Australian History*, University of Western Australia Press, Nedlands, pp131-140.
- Reeves, John QC. 1998. *Building on Land Rights for the Next Generation: Report of the Review of the Aboriginal Land Rights (Northern Territory) Act 1976*. Australian Government Printing Service, Canberra.
- Reid, J., L. Baker, S. R. Morton and Mutitjulu Community. 1992. Traditional Knowledge + Ecological Survey = Better Land Management. In *Search*, V23 No 8, September 1992.
- Reynolds, H. 1982. *The Other Side of the Frontier: Aboriginal Resistance to the European Invasion of Australia*, Penguin, Australia.
- Reynolds, H. 1990. *With the White People*. Penguin Books, Ringwood.
- Reynolds, H. 1992. *The Law of the Land*. Penguin Books Australia, Ringwood.
- Reynolds, H. 1993. 'Native Title and Pastoral Leases'. In M.A. Stephenson and S. Ratnapala (eds), *Mabo: A Judicial Revolution*. University of Queensland Press, St Lucia, pp119-31.
- Reynolds, H. 1996 [1987]. *Frontier: Reports from the Edge of White Settlement*. Allen and Unwin, St Leonards.
- Reynolds, H. 1998. *This Whispering in Our Hearts*. Allen and Unwin, St Leonards.
- Richards, M. 1982. 'Aborigines in the Victoria River Region: 1883-1928', *AIAS Newsletter*, New Series No.17:26-34.
- Riddett, L. 1985. 'Aboriginal Employment in the Pastoral Industry (N.T. 1930-1966)' in D. Wade-Marshall & P. Loveday (eds), *Employment and Underemployment: A Collection of Papers*. North Australia Research Unit, Australian National University, Darwin.
- Riddett, L. 1988. *Kine, Kin and Country: The Victoria River District of the Northern Territory 1911-1966*. PhD thesis, James Cook University, Townsville.
- Ritchie, D. 1994. 'Principles and Practice of Site Protection Laws in Australia', in D. Carmichael, J. Hubert and B. Reeves (eds), *Sacred Sites Sacred Places*. Routledge, London.
- Romaine, S. (ed). 1991. *Language in Australia*. Cambridge University Press, Cambridge.
- Ronan, T. 1966. *Once there was a Bag Man*, Cassell, Melbourne.
- Rose, B. 1992. 'Issues in cross cultural land management and Aboriginal landcare'. *Ecopolitics VI*, Royal Melbourne Institute of Technology, Melbourne.
- Rose, D. B. 1984. Preliminary Report: Ethnobotany in the Bungles. East Kimberley Working Paper No. 5.
- Rose, D. B. 1986. 'Passive Violence', in *Australian Aboriginal Studies* No. 1 1986: pp24-30.
- Rose, D. B. 1986. Bush Medicines: A Ngarinman and Bilinara Pharmacopoeia. AIAS, Canberra.
- Rose, D. B. 1987. 'Consciousness and Responsibility in an Australian Aboriginal Religion'. In W. H. Edwards (ed), *Traditional Aboriginal Society*, Macmillan, South Melbourne.
- Rose, D. B. 1988a. Exploring an Aboriginal Land Ethic. In *Meanjin*, 3, 1988, pp378-87.
- Rose, D. B. 1991. *Hidden Histories: Black stories from Victoria River Downs, Humbert River and Wave Hill Stations*. Aboriginal Studies Press, Canberra.
- Rose, D. B. 1992a. 'Nature and Gender in Outback Australia', in *History and Anthropology*, Vol. 5, No. 3-4:403-425.
- Rose, D. B. 1992b. *Dingo Makes us Human: Life and land in an Aboriginal Australian culture*. Cambridge University Press.
- Rose, D. B. 1993. Reflections on Ecologies for the Twenty-first Century. In Williams, N. M. & G. Baines (eds), *Traditional Ecological Knowledge: Wisdom for Sustainable Development*. Centre for Resource and Environmental Studies, ANU, Canberra.
- Rose, D. B. 1994. 'Ned Kelly died for our sins'. *Oceania*, 65(2), December 1994.
- Rose, D. B. 1996a. 'The Public, the Private and the Secret Across Cultural Difference', in J. Finlayson and A. Jackson-Nakano (eds), *Heritage and Native Title: Anthropological and Legal Perspectives*, Australian Anthropological Society and the Australian Institute of

- Rose, D. B. 1996b. *Nourishing Terrains: Australian Aboriginal Views of Landscape and Wilderness*. Australian Heritage Commission, Canberra.
- Rose, D. B. 1997. 'Australia Felix rules OK!', in G. Cowlshaw and B. Morris (eds), *Race Matters*, pp 121-37. Aboriginal Studies Press, Canberra
- Rose, D. B. & A. Clarke (eds). 1997. *Tracking Knowledge in North Australian Landscapes: studies in Indigenous and settler ecological knowledge systems*. North Australia Research Unit, Australian National University. Canberra and Darwin.
- Rose, D. B. & D. Lewis, 1987. *The Shape of the Dreaming: report on the cultural significance of Victoria River Rock Art*. AIAS, Canberra.
- Ross, H., E. Young & L. Liddle. 1994. 'Mabo: An inspiration for Australian Land Management', *Australian Journal of Environmental Management*, 1(1): 24-41.
- Rowley, C. D. 1972. *The Destruction of Aboriginal Society*, Penguin Books, Ringwood, Victoria.
- Rowley, C.D. 1971. *The Remote Aborigines*, Australian National University Press, Canberra.
- Rowse, T. 1986. 'Aborigines as Historical Actors: Evidence and Inference', in *Historical Studies*, Vol. 22, No. 87:176-198.
- Rowse, T. 1987. "Were you ever savages?' Aboriginal insiders and pastoralists' patronage'. *Oceania*, vol 58 No.1:81-99.
- Rowse, T. 1988a. 'Paternalism's Changing Reputation', in *Mankind*, 18(2):57-73.
- Rowse, T. 1988b. 'Tolerance, Fortitude and Patience: Frontier Pasts to Live With?', *Meanjin* 1/1988:21-29.
- Rowse, T. 1992. *Remote Possibilities: The Aboriginal Domain and the Administrative Imagination*, North Australia Research Unit, Australian National University, Darwin.
- Rowse, T. 1998. *White Flour, White Power: From Rations to Citizenship in Central Australia*. Cambridge University Press.
- Rumsey, A. 1996. 'Aspects of Native Title and Social Identity in the Kimberleys and Beyond', *Australian Aboriginal Studies*, 1996/number 1.
- Rural Landholders for Coexistence [RLC]. 1998. *Talking Common Ground...Negotiating Agreements with Aboriginal People*, Rural Landholders for Coexistence, PO Box Q1074, QVB NSW.
- Russell, J. A. 1988. *Valuing Cultural Landscapes in the USA, Britain and Australia: A Review of the Literature and Comment on the Development of Theory and Conservation Practice*. Environmental Studies Occasional Paper 22, University of Tasmania, Hobart.
- Russell-Smith, J. 1991. Classification, species richness, and environmental relations of monsoon rain forest in northern Australia. In *Journal of Vegetation Science*, 1991, 2:259-78.
- Sackett, L. 1991. 'Promoting Primitivism: Conservationist Depictions of Aboriginal Australians', *Australian Journal of Anthropology*, 2(2):233-46.
- Sansom, B. 1980. *The Camp at Wallaby Cross*, Australian Institute of Aboriginal Studies, Canberra.
- Sansom, B. 1988. 'A Grammar of Exchange', in I. Keen (ed) *Being Black: Aboriginal cultures in settled Australia*, Aboriginal Studies Press, Canberra, pp159-177.
- Scarlet, N. H. 1984. *A Preliminary Account of the Ethnobotany of the Kija People of Bungle Bungle Outcamp*. East Kimberley Working Paper No. 6.
- Schultz, C. 1995. *Beyond the Big Run: Station Life in Australia's Last Frontier*, University of Queensland Press, St Lucia.
- Scott, J. C. 1985. *Weapons of the Weak: Everyday forms of peasant resistance*, Yale University Press, New Haven.
- Scott, J. C. 1992. 'Domination, Acting, and Fantasy', in Carolyn Nordstrom and JoAnn Martin (eds) *The Paths to Domination, Resistance, and Terror*, University of California Press, Berkeley, pp55-84.
- Shaw, B. 1986. *Countrymen: the life histories of four Aboriginal men as told to Bruce Shaw*. AIAS, Canberra.
- Shaw, B. 1992. *When the Dust Comes Between: Aboriginal Viewpoints in the East Kimberley Prior to 1982*, Aboriginal Studies Press, Canberra.

- Smith, N. et al, 1993. *Ngarinyman Ethnobotany: Aboriginal Plant Use from the Victoria River Area, Northern Australia*. Northern Territory Botanical Bulletin No16, Conservation Commission of the Northern Territory, Darwin.
- Smythe, D. 1995. *A Voice in All Places: Aboriginal and Torres Strait Islander Interests in Australia's Coastal Zone*. Resource Assessment Commission, Canberra.
- Smyth, D. & Sutherland, 1996. *Indigenous Protected Areas*, Environment Australia, Canberra.
- Spearritt P. & J. Rickard (eds). 1991. *Packaging the Past? Public Histories*. Melbourne.
- Stehlow, T.E.H. 1970. 'Geography and the Totemic Landscape in Central Australia: a functional study', in R. M. Berndt (ed), *Australian Aboriginal Anthropology*. University of Western Australia Press, Perth: pp 92-140.
- Stephenson, M.A. and S. Ratnapala (eds). 1993. *Mabo: a judicial revolution*, University of Queensland Press, St Lucia.
- Stevens, F. 1974. *Aborigines in the Northern Territory Cattle Industry*, Australian National University Press, Canberra.
- Stevens, S. 1986. *Inhabited National Parks: Indigenous Peoples in Protected Areas*. East Kimberley Working Paper No. 10. CRES, ANU, Canberra.
- Strehlow, T.G.H. 1947. *Aranda Traditions*. Melbourne University Press.
- Strehlow, T.G.H. 1965. 'Some Comments from Mr. T. G. H. Strehlow, Reader in Australian Linguistics, University of Adelaide', Appendix II, Legislative Council of the Northern Territory, *Report from the Select Committee on the Native and Historical Objects and Areas Preservation Ordinance*.
- Strehlow, T.G.H. 1970. 'Geography and the Totemic Landscape in Central Australia', in R. M. Berndt (ed), *Australian Aboriginal Anthropology*. University of Western Australia Press, Nedlands.
- Strelein, L. M. 1993. Indigenous People and Protected Landscapes in Western Australia. In *Environment and Planning Law Journal*, December 1993, pp380-97.
- Sullivan, J. 1983. *Banggaiyerri*, Australian Institute of Aboriginal Studies, Canberra.
- Sullivan, P. 1986. 'The generation of cultural trauma; what are anthropologists for?', in *Australian Aboriginal Studies* No. 1 1986.
- Sullivan, P. 1996. *All Free Man Now: Culture, Community and Politics in the Kimberley Region, North-Western Australia*, Aboriginal Studies Press, Canberra.
- Sullivan, P. 1997. *Regional Agreements in Australia: An Overview Paper*, Issues paper No. 17, Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Sullivan, S. 1992. 'Aboriginal Site Management in National Parks and Protected Areas', in J. Birckhead, T. De Lacy & L. Smith (eds), *Aboriginal Involvement in Parks and protected Areas*. pp . Aboriginal Studies Press, Canberra.
- Sullivan, S. 1993. 'Cultural Values and Cultural Imperialism', in *Historic Environment* Vol. 10 No. 2&3: 54-61.
- Sullivan, S. 1995. Editorial, *In Place: A Cultural Heritage Bulletin*. First Issue, 1995. Australian Heritage Commission, Canberra: pp1-2.
- Sullivan, S. M. 1983. 'Aboriginal sites and ICOMOS guidelines', *Historic Environment*, 3(1):14-33.
- Sultan, R., P. Josif and C. MacKinolty (eds). 1996. *Ecopolitics IX: Conference Papers and Resolutions*. Northern Land Council, Darwin.
- Sutton, P. 1985. 'Opinion Formation and the Problem of Group Consent', *Anthropological Forum*, 5(3):382-84.
- Sutton, P. 1987. 'Mystery and change', in M. Clunies-Ross, M.T. Donaldson & S.A. Wild (eds), *Songs of Aboriginal Australia*. Oceania Monograph 32. University of Sydney.
- Sutton, P. 1988. 'Myth as history, history as myth', in I. Keen (ed), *Being Black: Aboriginal cultures in settled Australia*, Aboriginal Studies Press, Canberra, pp251-68.
- Sutton, P. 1989. *Dreamings: the Art of Aboriginal Australia*. Viking, Victoria.
- Sutton, P. 1996. 'The Robustness of Aboriginal Land Tenure Systems: Underlying and Proximate Customary Titles', *Oceania*, 67:7-29.

- Sutton, P. 1999. Anthropological submission to the Reeves Review, Aldgate, South Australia, 10 February 1999.
- Sutton, P. (ed). 1995. *Country: Aboriginal Boundaries and Land Ownership in Australia*. Aboriginal History Inc., Canberra.
- Sutton, P. and B. Rigsby. 1982. 'People with 'politicks': management of land and personnel on Australia's Cape York Peninsular', in Williams, N.M. and E.S. Hunn (eds). 1982. *Resource Managers: North American and Australian Hunter-Gatherers*. A.I.A.S. Canberra.
- Sweeney, G. 1947. Patrol of stations in Timber Creek and Wave Hill districts, September-October 1947.
- Tatz, C. 1999. *Genocide in Australia*, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- Thorpe, B. 1996. 'Frontiers of Discourse: Assessing Revisionist Australian Colonial Contact Historiography', in *Journal of Australian Studies*, Volume 19, Issue 46, 1995.
- Toohy, J. 1984. *Seven Years On: Report by Mr Justice Toohey to the Minister for Aboriginal Affairs on the Aboriginal Land Rights (Northern Territory) Act 1976 and Related Matters*. AGPS, Canberra.
- Trigger, D. 1992. *Whitefella Comin': Aboriginal Responses to Colonialism in Northern Australia*, Cambridge University Press, Sydney.
- Trigger, D. 1997. 'Mining, Landscape and the culture of development ideology in Australia', *Ecumene*, 4:161-180.
- U.S. Department of State. 1999. 'Remarks by Secretary of State Madeleine K. Albright before the State Department's Fourth Annual Meeting with American Indians and Alaska Natives, Native Hawaiians and Other Indigenous Americans'. Office of the Spokesperson, 14 July 1999.
- Veth, P. M. and F. J. Walsh. 1988. The concept of "staple" plant foods in the Western Desert region of Western Australia. In *Australian Aboriginal Studies*, 1988 No.2:19-25.
- Vincent, P. 1983. 'Noonkanbah', in Peterson, N. and M. Langton (eds), *Aborigines, Land and Land Rights*. AIAS, Canberra: 327-38.
- Von Sturmer, J. 1981. 'Talking with Aborigines', *Australian Institute of Aboriginal Studies Newsletter*, 15:13-30.
- Wallace, P. & N. 1977. *Killing Me Softly: The Destruction of a Heritage*, Nelson, Melbourne.
- Walsh, F. J. 1990. An ecological study of traditional Aboriginal use of "country": Martu in the Great and Little Sandy Deserts, Western Australia. In *Proceedings of the Ecological Society of Australia*, 1990, 16:23-37.
- Walsh, M. 1997. 'The land still speaks? Language and landscape in Aboriginal Australia', in D. B. Rose and A. Clarke (eds), *Tracking Knowledge in North Australian Landscapes: studies in Indigenous and settler ecological knowledge systems*. North Australia Research Unit, Darwin.
- Watson, Pamela Lukin, 1998. *Frontier Lands & Pioneer Legends: How pastoralists gained Karuwal land*. Allen and Unwin, St Leonards.
- Weiner, J.F. 1995. 'Anthropologists, historians and the secrets of social knowledge'. *Anthropology Today*, Oct : 3-7.
- Wensing, Ed. 1997. 'Native Title: Can it be Regulated?', inaugural Keeble Lecture, Brisbane, 12 August 1997. Royal Australian Planning Institute.
- White, N. and B. Meehan. 1993. 'Traditional Ecological Knowledge: A Lens on Time'. In Williams, N. M. & G. Baines (eds), *Traditional Ecological Knowledge: Wisdom for Sustainable Development*. Centre for Resource and Environmental Studies, ANU, Canberra.
- Wild, S.A. 1987. Recreating the jukurrpa: adaption and innovation of songs and ceremonies in Warlpiri society. In M. Clunies-Ross, M.T. Donaldson & S.A. Wild (eds), *Songs of Aboriginal Australia*. Oceania Monograph 32. University of Sydney.
- Wilkins, D. 1993. 'Linguistic Evidence in Support of a Holistic Approach to Traditional Ecological Knowledge', in Williams, N. M. & G. Baines (eds), *Traditional Ecological Knowledge*:

- Wisdom for Sustainable Development*. Centre for Resource and Environmental Studies, ANU, Canberra.
- Willey, K. 1971. *Boss Drover*, Rigby, Adelaide.
- Williams, N. and E. Hunn (eds). 1982. *Resource Managers: North American and Australian Hunter-Gatherers*. A.I.A.S. Canberra.
- Williams, N. M. 1982. 'A Boundary is to Cross: Observations of Yolngu Boundaries and Permission', in N.M. Williams & E.S. Hunn (eds). 1982. *Resource Managers: North American and Australian Hunter-Gatherers*. A.I.A.S. Canberra.
- Williams, N. M. 1986. *The Yolngu and Their Land: A System of Land Tenure and the Fight for Its Recognition*. AIAS, Canberra.
- Williams, N. M. and G. Baines (eds). 1993. *Traditional Ecological Knowledge: Wisdom for Sustainable Development*. Centre for Resource and Environmental Studies, ANU, Canberra.
- Willshire, W. 1896. *The Land of the dawning, being facts gleaned from cannibals in the Australian stone age*. W.K. Thomas Co., Adelaide.
- Wilson, B.A., P.S. Brocklehurst, M.J. Clark and K.J.M. Dickinson. 1990. *Vegetation Survey of the Northern Territory*, Australia. Technical Report No. 49. Conservation Commission of the Northern Territory.
- Woenne-Green, S., R. Johnson, R. Sultan and A. Wallis, 1993. *Competing Interests: Aboriginal participation in National Parks and Conservation reserves in Australia*. Australian Conservation Foundation, Melbourne.
- Wood, B.G., Blandford and Harrison, 1979. *The Land Systems and Erosion on Part of Humbert River Station*. Technical Report No 3, Land Conservation Unit, Territory Parks and Wildlife Commission, CCNT.
- Woodward J. 1973. *Aboriginal Land Rights Commission, First Report*. AGPS, Canberra.
- Woodward J. 1974. *Aboriginal Land Rights Commission, Second Report*. AGPS, Canberra.
- Young, E. 1988. 'Land Use and Resources: A black and white dichotomy', in, *Land, Water and People: Geographical Essays in Australian land management*. R. L. Heathcote and J. A. Mabutt (eds) Sydney.
- Young, E., H. Ross, S. Johnson and S. Kesteven. 1991. *Caring for Country: Aboriginal Land Management*. Australian National Parks and Wildlife Service, Canberra.
- Young, R. 1990. *White Mythologies: Writing History and the West*. London, N.Y.: Routledge.

Interviews:

Interviews conducted by the author:

Interview with Bobby Witiitjpuru, Bulla Camp, 25 August 1994

Interview with Bobby Witiitjpuru, Bulla Camp, 28 May 1995

Interview with Lloyd Fogarty, Timber Creek, 8 June 1995

Interview with Alan Andrews, Auvergne Station, 16 July 1995

Interview with Laurie Roberts, Timber Creek, 18 July 1995

Interview with Jerry Jones, Myat Camp, 19 July 1995

Interview with Alan Griffiths, Kununurra, 17 July 1995

Other interviews:

NTAS NTRS 226 TS 452: Interview with Reg Durack, 1987.

NTAS NTRS 226 TS 629: Interview with Enid Durack, 1990.

NTAS NTRS 226 TP 591: Bobby Witiitjpuru interviewed by John Fletcher, 8/9/87.

NTAS NTRS 226 TS 60/1: Interview with Ivor Hall, 1970.

NTAS NTRS 226 TS 230: Interview with Mr and Mrs Noel Hall, 28/8/78

NTAS NTRS 226 TS 459: Interview with Charlie Schultz, 1987.