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Environmental struggles in Aboriginal homelands: Indigenizing conservation in Australia

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Many large remaining areas of high conservation value currently lie within Indigenous homelands. The attempts of conservationists to protect such areas from industrial development sometimes come into conflict with the contrary wish of Indigenous populations to benefit from such development. How, in such cases, can the claims of Earth communities to ecological justice be reconciled with those of Traditional Owner communities to Indigenous justice? The dilemma is here examined via a case study, that of a proposed natural gas installation at James Price Point in the far north of Western Australia. It is argued that resolution of the dilemma may require a significant re-visioning of conservation: environmentalists might need to concede to Aboriginal communities the moral ownership of conservation per se, at least in so far as it applies to Aboriginal homelands, and perhaps more widely.

Keywords: *Aboriginal Law, Indigenous conservation, ecological justice, biocultural diversity, Indigenous justice, culture and conservation economies, reciprocal colonization*

1 INTRODUCTION

One of the hardest of the many formidable problems facing conservationists today is how to justify conservation projects that are likely to have adverse consequences for poor and marginalized people in relevant localities. Many different types of scenario can pose this problem. In one instance, subsistence farmers might be excluded from the bushlands in which they have traditionally foraged for resources; in another, species such as wolves or lions, which threaten the property or lives of local communities might be protected from culling; or, in a different instance again, vast areas traditionally owned by small Indigenous communities might be reserved for conservation and brought under external management regimes.

A widely – if often tacitly – shared ethical premise of the conservation movement to date has been that of ecocentrism. The term 'ecocentrism' refers to the view that other-than-human beings and systems are morally considerable in their own right, independently of any utility they might possess for humans. The term was coined by environmental philosophers in reaction to the traditional premise of moral thinking in the West, namely anthropocentrism: the view that humans alone are inherently morally considerable; other-than-human beings and systems assume moral significance, from an anthropocentric perspective, only in so far as they possess utility for us.[1] While not all conservationists signed

1. For a round-up of the basic categories and positions of environmental philosophy, see A Brennan and Y Lo, 'Environmental Ethics', *Stanford Encyclopedia of Philosophy* (2015) <https://plato.stanford.edu/entries/ethics-environmental/> accessed 31 October 2020.

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up to ecocentrism or even gave the question much thought,[2] there was nevertheless a widespread if tacit agreement among conservationists that species and ecological communities mattered in and of themselves; it was for this reason, as much as for their utility to humans, that species and ecological communities were seen as deserving of protection.[3] Although in recent years there has been significant pushback against ecocentrism in some quarters of the conservation establishment, the case in favour of it – under a new banner, that of ecological justice – has also been vigorously re-launched in the conservation literature.[4]

Ecological justice is understood, minimally, as a matter of treating other-than-human species as having a claim in justice to a share of the Earth's resources.[5] More substantively, ecological justice pertains to the moral entitlement of other-than-human, as well as human, constituencies to resources and to freedoms proportionate to their needs: in the case of the other-than-human, these resources might include suitable undisturbed habitat, access to migration and dispersal routes and freedom from ecologically inappropriate forms of hunting and/or culling.[6] But, returning

2. Some have argued in the past that choice of ethical base makes little difference to practical outcomes: looking after the natural environment for the sake of its human utility will protect the non-human just as effectively as explicitly looking after the non-human for its own sake would do: B Norton, *Toward Unity among Environmentalists* (Oxford University Press, New York 1991). This position however now seems untenable: in spite of a massively escalating rate of extinctions, human systems continue to function. The degree of environmental protection required to ensure human functionality may thus fall well below what is required to ensure security for all species. In other words, the level of conservation sanctioned by anthropocentrism would appear to be significantly lower than that required by ecocentrism: H Washington, G Chapron, H Kopnina, P Curry, J Grey, J Piccolo, 'Foregrounding Eco-Justice in Conservation' (2018) 228 Biological Conservation 367–74.

3. In an early article, one of the founding fathers of conservation biology, Michael Soulé, was explicit about the normative foundations of the new discipline: 'Biotic diversity has intrinsic value, irrespective of its instrumental or utilitarian value. This normative postulate is the most fundamental. … Species have value in themselves, a value neither conferred nor revocable, but springing from a species' long evolutionary heritage and potential or even from the mere fact of its existence': ME Soulé 'What is Conservation Biology' (1985) 35(11) BioScience 727–34, 731. Hitting back against the anthropocentrism of eco-modernism, Soulé reaffirmed the ecocentric foundation of the conservation project in 2014 in a *Biological Conservation* editorial, entitled 'Species Extinction is a Great Moral Wrong', co-authored with Phillip Cafaro: ME Soulé and P Cafaro, 'Species Extinction is a Great Moral Wrong' (2014) 170 Biological Conservation 1–2.

4. H Kopnina and H Washington (eds), *Conservation: Integrating Social and Ecological Justice* (Springer International, Switzerland 2020). One recent and influential school of thought in conservation, known as ecomodernism, argues that in the current era of mass extinctions it is no longer feasible to try to 'save everything' while also ensuring that all humans have what they need. Accordingly, ecomodernists refuse to proceed with conservation interventions unless those interventions are not only compatible with, but positively serve, the interests of any disadvantaged and marginalized human parties affected by them. In other words, in the face of the countless millions of humans in dire economic need, eco-modernists are prepared to direct resources to the needs of non-humans only if disadvantaged human stakeholders also benefit from those interventions. See the Eco-Modernist Manifesto <http://www.ecomodernism.org>.

5. B Baxter, *A Theory of Ecological Justice* (Routledge, London 2004).

6. F Mathews, 'From Biodiversity-Based Conservation to an Ethic of Bioproportionality' (2016) 200 Biological Conservation 140–48. While the term, 'ecological justice' is generally taken to pertain to the distribution of biotic resources amongst all species, human and non-human alike, the term, 'environmental justice', pertains to the distribution of environmental

to our opening question, can the claims in justice of ecological communities to their fair share of resources always be balanced with the like claims of human communities? Is it legitimate for conservationists to advocate for ecological justice if doing so deprives local human communities of vital freedoms and resources?

This problem is often most acute when conservation is practised on the largest scale – when the goal is to protect vast, remote, thinly peopled and relatively ecologically intact terrains from development. Areas tend to be remote, and hence undeveloped, because they are inhospitable. The few people found in them are accordingly often economically disadvantaged and politically marginalized. It is precisely these areas however which represent one of the key contemporary frontiers for conservation, since they afford the last remaining opportunities to preserve ecosystems on a scale that allows for both ecological and evolutionary processes to proceed free of human disturbance, where such processes, by ensuring ongoing adaptiveness, contribute to the stability of the biosphere. The aspiration for such large-scale conservation, crucial for preserving biosphere integrity, has received a boost recently from the call, led by renowned biologist, EO Wilson, to reserve 'half the earth' for conservation.[7]

Such vast, relatively unpeopled terrains are often Indigenous territories. Indeed, a recent report shows that 70 per cent of the planet's remaining 'wilderness' areas occur in just five countries: Australia, USA, Canada, Brazil and Russia, all of which include extensive Indigenous homelands.[8] In this article, I shall focus specifically on this scenario of conservation in Indigenous homelands.

The conflict of interests between conservationists and human stakeholders can be particularly complex when the stakeholders in question are Indigenous. For where purely economic remedies – compensation and employment opportunities, for example – can often suffice in situations in which poor (but non-Indigenous) communities stand to be disadvantaged by conservation, such remedies tend to fall far short for communities with deep ties – of identity and culture – to affected lands.

In this article, I shall consider the nature of the conflicts that can arise between conservationists and Aboriginal communities in the latter kind of instance with the help

benefits and burdens across different human constituencies, without necessarily including consideration for the ecological effects of such distribution on the other-than-human. See, H Kopnina, 'Of Big Hegemonies and Little Tigers: Ecocentrism and Environmental Justice' (2016) 47(2) The Journal of Environmental Education 139–50. In this respect environmental justice is consistent with an anthropocentric perspective, though advocates of environmental justice might in addition, if they choose, address issues of ecological justice.

7. The claim that effective conservation requires protection of natural environments on such a grand scale is not unprecedented: R Noss, 'The Spectrum of Wildness and Rewilding: Justice for All', in H Kopnina and H Washington (eds), *Conservation: Integrating Social and Ecological Justice* (Springer International, Cham, Switzerland 2020) 167–82. But EO Wilson's recent book, *Half Earth* has mobilized greater support for it: EO Wilson, *Half-Earth: Our Planet's Fight for Life* (Liveright, New York 2016).

8. JEM Watson et al., 'Protect the Last of the Wild' (2018) Nature 563, 27–30. The extensive homelands of Indigenous peoples in Australia, USA and Canada are well known to English-speaking readers. But it is notable that though Indigenous peoples make up only 0.2 per cent of the Russian population, they inhabit about two-thirds of Russian territory. See the *Cultural Survival* website <https://www.culturalsurvival.org/news/who-are-indigenous-peoples-russia>. The territories of Brazil's Indigenous people are less vast in scale, though much of the Amazon remains in their hands. Brazil is home to 240 Indigenous tribes, comprising 0.4 per cent of Brazil's population, and these tribes inhabit 13 per cent of Brazil's land mass. See <https://www.survivalinternational.org/tribes/brazilian>.

of a particular case study, that of the Kimberley in the far north-west of the Australian continent. I would like to declare at the outset that I write as a conservationist and as an ecophilosopher with a lifelong commitment to ecocentrism in ethics. But I also write as a (non-Indigenous) Australian with an incalculable moral debt to Aboriginal people and a corresponding commitment to the cause of Aboriginal sovereignty.

2 THE CASE OF JAMES PRICE POINT

The Kimberley is an area of over 424 000 square kilometres – larger than many European countries (such as Italy or Germany), and almost twice the size of the United Kingdom. Yet in 2017 its permanent human population was just 36 239.[9] Nor is this vast area merely a marginal realm of little biological significance: it is rather one of Australia's 15 National Diversity Hotspots, home to many unusual and endemic animal species, such as the snubfin dolphin, bilby, golden bandicoot, masked owl, golden-backed tree rat, painted snipe and Gouldian finch.[10] It is a centre of world significance for migratory birds. The Kimberley coastline is also a humpback whale migration route, and the largest humpback nursery on Earth lies between Broome and Camden Sound. The pristine coral reefs that line the coast are as significant, biologically speaking, as the Great Barrier Reef. Although the known biodiversity values of the Kimberley region are high, the true extent of Kimberley biodiversity is still in fact unknown, as this rugged realm has as yet been relatively little surveyed. As a vast terrain in which ecological and evolutionary processes are still unfolding relatively free of human disturbance – despite some significant infiltration by livestock, ferals and weeds – populations of many species also remain unfettered and abundant, though as yet unquantified.

However, the Kimberley is not only a last stronghold of nature (and hence a conservation frontier). It is also one of the great surviving Indigenous homelands on the planet. Almost half of the permanent population of the Kimberley identifies as Aboriginal[11] and over 80 per cent of its area has been determined to be native title land.[12]

It is presumably on account of its extreme climate and harsh topography that the Kimberley has proved relatively resistant to development. A few industries – pastoralism, tourism, agriculture, pearling and fishing – have gained varying degrees of foothold in the province, but their impact has been limited. This state of affairs, so favourable to conservation, is however currently set to change. Mining and other extractive industries have recently arrived in the region and are avidly queuing up for a piece of the minerals action. Much of the Kimberley is now covered by mineral and exploration leases.[13] The position of the West Australian government is aggressively pro-development, and at a federal

9. West Australian Department of Primary Industries and Regional Development <http://www.drd.wa.gov.au/regions/Pages/Kimberley.aspx> accessed 6 November 2020.
10. J Carwardine, T O'Connor, S Legge, B Mackey, HP Possingham and TG Martin, *Priority Threat Management to Protect Kimberley Wildlife* (CSIRO Ecosystem Sciences, Brisbane 2011).
11. The percentage was 47.7 in 2006 and 43.5 in 2011. See Kimberley Development Commission <https://kdc.wa.gov.au/economic-profile/demographics>.
12. For a map of Native Title holdings in the Kimberley, see <https://www.klc.org.au/native-title-map/>.
13. See map at <http://www.abc.net.au/news/2012-11-19/report-details-mining-impact-in-the-kimberley/4379584>.

level the perennial political calls for the development of Australia's north are also increasingly insistent.[14]

In the face of this pressure, it would be natural to expect conservation groups to join forces with local Aboriginal communities to resist threats to the ecological integrity of the region. The Aboriginal people of Australia are legendary for their attachment to land and their custodial commitment to it. Ecological justice as a guiding norm for conservation also finds ready parity with Aboriginal notions of Law.

Let us pause for a moment to explore this parity. Law, as understood throughout Aboriginal Australia, is not regarded as a human construct but as *geogenic*, a dimension of normativity inherent in reality itself: all things born of Earth follow this Law.[15] Law is the logic inherent in living systems that ensures that, by their very nature, such systems perpetuate life. Failure to follow Law results in failure to persevere in existence. Conceived of as geogenic, Law can be distinguished from the anthropogenic laws of modern societies – conventions constructed or invented to serve specific social requirements that may vary widely from one society to another. (Law in this geogenic sense is here capitalized in order to mark it off from the conventional notion of law in modern state-societies.)

Humans however, as reflexive beings whose ends are shaped by culture as much as by biology, are less constrained than are many other species in their choices as to how to act: we are free, at least in the short term, to choose our own normative principles. Nonetheless, over the course of sixty thousand years of continuous inhabitation of the continent of Australia, Aboriginal people discovered that failure to adhere to the regenerative logic of life diminishes the prospects for survival. That logic was accordingly everywhere absorbed into Aboriginal culture as Law, seen as an overarching normative template for the organization of every aspect of human existence.

Accounts of the principles informing Law vary, but being immanent in land (and in this sense having an ontological as opposed to merely conventional status), the principles tend to be rediscovered and re-enshrined by different Aboriginal peoples throughout the continent. This narrative coding varies from one people to another – Law is articulated and conveyed via locally specific Dreaming stories – but across these codings common underlying principles remain discernible.[16]

A classic account of Law that resonates particularly well with notions of ecological justice derives from Deborah Bird Rose's ethnography, *Dingo Makes Us Human*, a study based on the teachings of Senior Elders from the community of Yarralin in the Northern Territory.[17] On the basis of these teachings, Rose characterizes Law in terms of four principles: balance, symmetry, autonomy and response.[18] When these principles are observed, she notes, sustaining relationships are preserved – between people and people, people and other species, species and species, species and country, country and country.[19] The Aboriginal cosmos, as governed by Law,

14. See Australian Government, Our North, Our Future: White Paper on developing Northern Australia <https://www.industry.gov.au/sites/g/files/net3906/f/June%202018/document/pdf/nawp-fullreport.pdf>.
15. CF Black, *The Land is the Source of the Law* (Routledge, London 2011).
16. M Graham, 'A Relationist Ethos: Aboriginal Law and Ethics' in M Maloney, J Grieves, B Adams and E Brindal (eds), *Inspiring Earth Ethics: Linking Values and Actions* (Australian Earth Laws Alliance, Brisbane 2019).
17. DB Rose, *Dingo Makes Us Human* (Cambridge University Press, Cambridge 1992).
18. These principles are explored throughout the book, but see particularly pp. 44–5.
19. ibid, 56.

is a moral order: every being, whether human or non-human, has some degree of free will – it can choose whether or not to play its part in keeping the system of relationships knitted up. To disregard Law is to allow the cosmos to unravel.[20]

Of the four principles which must be observed if a living system is to remain viable in the sense of continuing to promote life, the core one is perhaps balance: the cosmos exhibits balance when none of its interdependent parts or elements are allowed to quash, eliminate, annihilate or conquer others.[21] Competition and conflict, including killing – as for instance via predation – are allowed, but domination is not.[22] Balance is further elaborated by way of symmetry: each part must be evenly matched against every other, so that no part can definitively defeat another, in the sense of overwhelming or permanently disabling it. Where conflicts or contests occur, the aim will not be definitively to defeat the opposing party but merely to block or contain them, so that they in turn cannot defeat others. 'Victory', in the sense of the permanent disabling of the opponent, is seen as undesirable because, again, it undermines one part of the system to the detriment of the whole. Evenly matched or symmetric parties will, in turn, exhibit autonomy: each part of the system – whether human or nonhuman – will be 'boss for itself'.[23] It will have its own individual principle of self-rule, in the sense of its own role to play in preserving the system of sustaining relationships; it will not fall under the rule or governance of any other party. Such an overall state of balance can only be maintained by way of continuous communication between all parts of the system: all parties must be able to detect disturbances in the system if they are to respond appropriately, which is to say in ways calculated to rectify those disturbances. This process of rectification involves communication rather than mere observation because all parties act intentionally rather than in predetermined and hence predictable ways. Such parties must accordingly be consulted, in some sense, about their intentions rather than merely observed from the outside, in a scientific manner. In these interrelated ways then, Law ensures that no part of the system becomes dominant over others.

This classic anthropological account of Law has been corroborated and elaborated by a new wealth of Indigenous-authored scholarship[24] that has made its appearance in the last decade. Even from such a tiny nutshell however, we can see that Aboriginal Law not only exhibits close affinities with, but puts empirical and experiential flesh on abstract definitions of, ecological justice.

From the perspective of ecological justice, all living things ought indeed to be free to follow their own intrinsic *telos*, where this *telos* may be understood as the unique individual propensity that prompts them (without ever fully determining them) to play their distinctive role in the ecological scheme of things. This role can involve both competition and cooperation with other living things, but never subjects one living thing to the 'rule' of others: competition never entirely subordinates a living thing to another's will.[25]

20. ibid.
21. ibid, 167–73.
22. ibid, 105.
23. ibid, 45, 55.
24. Black (n 15); I Watson, *Aboriginal Peoples, Colonialism and International Law: Raw Law* (Routledge, Abingdon 2015); M Graham, 'Some Thoughts about the Philosophical Underpinnings of Aboriginal Worldviews' (1999) 3 Worldviews: Environment, Culture, Religion 105–18; Graham (n 16).
25. For an interpretation of ecological justice specifically in terms of freedom, see E Crist, 'The Reaches of Freedom: A Response to an Ecomodernist Manifesto' (2015) 7 Environmental Humanities 245–54; E Crist, *Abundant Earth* (University of Chicago Press, Chicago 2019).

All living things should, in this sense, remain 'boss for themselves', never overstepping in their behaviour the limits of what will preserve balance and symmetry amongst all the interrelated, mutually communicating parts of the system.

In view of the evident affinities between notions of ecological justice and Aboriginal tradition, one might expect alliances to form between conservation groups and Aboriginal stakeholders in the face of development threats to the Kimberley. But in fact, the actual reaction of Aboriginal stakeholders to such threats has so far been complex.

Tradition in any given society evolves out of praxis, or the basic forms of organized economic activity people undertake in order to survive, and praxis represents a response to the material conditions of the society in question. When material conditions change, tradition may be left high and dry:[26] people cannot live by tradition alone. If tradition cannot secure a people's livelihood, they may, however reluctantly, have to set it aside.

In a landmark case several years ago, local Aboriginal communities were divided over their response to a proposal to establish an industrial port and massive gas processing plant at a place called Walmadany or James Price Point on the pristine Kimberley coast.[27]

The establishment of the plant, proposed by the Australian company, Woodside, and endorsed by the West Australian government, would have required dredging a channel, laying ocean pipes, and constructing a six kilometre breakwater as well as clearing 2400 hectares (24 sq. km) of Pindan Woodlands.[28] This process would have involved extensive blasting of coral reefs, seismic pollution dangerous to whales and other cetaceans, sediment and sea pollution from drilling and dredging and ongoing heavy shipping traffic (2700 tanker movements per year).[29] Huge amounts of water would also have been required, which would have been obtained either by depleting groundwater reserves or by desalination, which would further have contaminated the marine environment with saline and other chemical effluents.[30] Construction of the plant would have required on-site accommodation for 8000 workers and the operation of the plant would have seen the arrival of 1000 permanent personnel.[31]

The industrial port at James Price Point was clearly intended by the West Australian premier at the time, Colin Barnett, the project's principal architect and champion, to be a strategic point of penetration, an industrial gateway to the Western Kimberley. Barnett is on record as wanting to turn the Kimberley into the 'Saudi Arabia of gas'[32] – and

26. F Mathews, 'Walking the Land: An Alternative to Discourse as a Path to Ecological Consciousness and Peace' in J Camilleri and D Guess (eds), *Towards a Just and Ecologically Sustainable Peace* (Palgrave Macmillan, Abingdon 2020).

27. The Aboriginal name, Walmadany, references an historical leader of the local Jabirr Jabirr people. He was a 'fierce protector of his people, of his country's *jila* (water holes), and of his country against strangers – be they invading tribes, or Europeans': S Cooke, 'Walmadany: One Place Fighting Against Many', Overland Blog, September at <http://overland.org.au/2010/09/walmadany-one-place-fighting-against-many/>. The leader's remains are buried at the site.

28. F Mathews, 'A National Campaign for the Kimberley' <http://nationalunitygovernment.org/pdf/Kimberley-background-paper.pdf>.

29. ibid.

30. ibid.

31. ibid. It is important to note that 'the first impacts of industry on wilderness areas are the most damaging'. Once wilderness areas have been eroded by those incursions, intactness and the many values that accompany it can never be fully restored: Watson et al. (n 8), 30.

32. 'Standing Up for What Matters in the Kimberley', Hansard, Parliament of Australia <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:%22library/partypol/2686740%22>.

no doubt a Mecca for mineral extraction generally. Many resource companies, including BHP Billiton, BP, Shell and Chevron, had already invested in the region and proposals for future resource extraction included strip mining for bauxite, alumina refineries, coal and uranium mining, copper mining, fertilizer and ammonia plants.[33]

When Colin Barnett was faced, under Native Title law, with the potential stumbling block of securing Indigenous consent for the strategic development at James Price Point, he threatened to compulsorily acquire the site if Traditional Owners did not comply.[34] At the time there were overlapping Native Title claims to the area, notably those of the Goolarabooloo and the Jabirr Jabirr, but no Native Title determination had yet been made.[35] Backed by the Jabirr Jabirr, the Kimberley Land Council (KLC), set up to represent all local claimant groups, did consent, early in 2011. Habituated to compromise by the inbuilt bias in Native Title legislation that accords Traditional Owners no real power of self-determination on their lands, the KLC sought to broker the best possible compensation deal for its members, rather than engaging in futile opposition. The views of the Goolarabooloo, who did strongly oppose the development, were dismissed by the KLC.[36]

Conservation groups from across Australia rallied to support the Goolarabooloo. The battle to 'save the Kimberley' was regarded by many, both locally and from farther afield, as a once-in-a-generation environmental cause. For months a protest camp was maintained at Walmadany/James Price Point and campaigns were waged throughout the nation. Feelings ran high, with the West Australian government lashing out at 'greenies' trying to cheat Aboriginal Australians of their chance to lift themselves out of poverty via the compensations and benefits that would supposedly accrue from development.[37] Environmentalists and many non-Indigenous locals were desperate to save the Kimberley from the fate that had befallen the neighbouring Pilbara, another region of immense conservation and Aboriginal heritage value that had been subjected to pervasive industrialization. The local Aboriginal community, meanwhile, was split between those who felt that the economic benefits of the gas hub would outweigh any environmental costs and those who passionately wished to protect and preserve their country. Aboriginal groups in favour of development perceived interference by conservation groups as an affront to their moral sovereignty, while groups opposing development actively reached out to conservationists as natural allies.[38]

33. Mathews (n 28).
34. S Burnside, 'James Price Point: Victory or Loss?' *Arena Magazine*, June 2013 <https://arena.org.au/james-price-point-victory-or-loss/> accessed 6 November 2020.
35. For a map of all the native title claims relevant to the case, see *Australian Financial Review*, <https://www.afr.com/business/energy/gas/judge-to-end-bitter-battle-of-james-price-point-20180427-h0zce3>.
36. Burnside (n 34).
37. ibid.
38. Aboriginal individuals and groups resisting development in the Kimberley include Anne Poelina, Rodney Augustine, Nyul and Bardi filmmaker, Albert Wiggan, as well as the Goolarabooloo. Many of these parties, such as Poelina and her associates, work closely with conservation bodies, such as the Australian Earth Law Alliance. In Australia Noel Pearson is the most prominent Aboriginal leader who has insisted on the right of Traditional Owners to commercialize their lands and waterways and to capitalize their natural resources if they perceive this to be in the economic interests of their communities. Pearson opposed the Wild Rivers Act 2005 (Queensland) that afforded environmental protection to major rivers on Cape York Peninsula on the grounds that it condemned

In March 2013, Woodside announced that the gas plant would not proceed at Walmadany/James Price Point. Conservationists claimed victory, but Woodside cited – entirely plausible – economic reasons for their decision: it would be cheaper to pipe gas to an existing plant further south on the Pilbara coast.[39] There was a sombre coda to this stay of execution however. In late 2017, the Federal Court finally handed down its native title determination for the mid-Dampier Peninsula, where Walmadany/James Price Point is located. Native title was awarded to the Jabirr Jabirr, Nyul Nyul and several other local groups; the claim by the Goolarabooloo was wholly rejected, on legally legitimate grounds.[40]

In the wake of the decision, resentment against the Goolarabooloo, but particularly against the environmentalists and 'celebrity activists' who had supported their opposition to the gas plant, flared. Wayne Bergmann, who, as CEO of the KLC during the James Price Point affair, had negotiated a prospective $1.5 billion compensation deal with Woodside and the WA government, lamented the loss. Environmentalists, he was reported as saying, had helped 'destroy a huge economic opportunity … They used the cloak of indigenous people, but they had their own agenda, and that was "no development at any cost"'.[41]

It was all too easy to take sides in this dispute, viewing the opposing camp from one's own high moral ground. In some ways, Bergmann's remark was correct. It is unlikely that environmentalists could ever have saved Walmadany/James Price Point on their own, since there was not yet a mandate, in Australia or elsewhere, for large-scale conservation. The Half-Earth movement might have flagged such a large-scale intention in the years since the James Price Point affair, but any kind of popular mandate was then – and still is – lacking. Arguments for sparing a relatively small area like Walmadany in a landscape as vast as the Kimberley were, in 2011, very unlikely to garner public support. The green alliance with the Goolarabooloo could accordingly have indeed been at least partly expedient. It is also true that the Goolarabooloo's claim to Traditional Owner status was far from straightforward, the Jabirr Jabirr's being demonstrably more consistent with the Native Title Act (whatever the inadequacies of that Act might be).[42] The greater questionability of the Goolarabooloo claim did not stop some environmentalists from portraying Jabirr Jabirr at the time as 'selling out', and as being less authentic, in terms of cultural

the region to under-development and hence its predominantly Aboriginal populace to the social pathologies bred by 'passive welfare mentality': T Neale, *Wild Articulations: Environmentalism and Indigeneity in Northern Australia* (University of Hawai'i Press, Honolulu 2017) 27.

39. C Gribbon, 'Woodside Pulls the Plug on James Price Point', ABC 12 April 2013 <https://www.abc.net.au/news/rural/2013-04-12/woodside-pulls-the-plug-on-james-price-point/6142214>.

40. W Cacetta, 'Goolarabooloo Fail in Native Title Appeal', *National Indigenous Times*, 9 January 2019. <https://nit.com.au/goolarabooloo-fail-in-native-title-appeal/> accessed 6 November 2020.

41. A Aikman, 'Kimberley Gas Protest Fought on False Native Title Claim', *The Australian*, 29 November 2017. Elsewhere Bergmann was quoted as remarking bitterly that, in retrospect, 'the environmental groups have created that much pressure on Woodside that we missed the window. Because it was dragged out because of the protesting took so long, it destroyed the commercials of the project': A Patrick, 'Judge to End Bitter Battle of James Price Point', *Financial Review*, 29 April 2018 <https://www.afr.com/companies/energy/judge-to-end-bitter-battle-of-james-price-point-20180427-h0zce3> accessed 6 November 2020.

42. L O'Neill, 'The Biggest Threat to Culture is Not an LNG Plant: The Real Battle for James Price Point', *The Guardian*, 2 January 2017.

standing, than the Goolarabooloo.[43] Whatever their personal feelings in this connection however, environmentalists were caught in a moral bind. Sensitive though they might be to the economic and social quandaries inducing the Jabirr Jabirr to seize the economic 'bait' offered by industry, they faced their own over-riding moral imperative – to pre-empt the first step towards large-scale industrial incursion into one of the last great 'wilderness' areas on the planet.

In the aftermath of this epic battle, let us stand back and try to unpick the tangled threads of its ethical conundrums. How could conservationists, committed to ecological justice, have tried in good conscience to persuade the KLC to refuse the economic bait offered them by industry? Or, turning the question around, how might conservationists have tried to win the consent of all the relevant Aboriginal parties to wholesale conservation – to a Half-Earth type scenario in their back yard?

To embark on this argument in good faith, it is first necessary truly to appreciate the Aboriginal standpoint. Aboriginal people are self-evidently a colonized people. Perhaps they should even be described as a conquered people, a people whose country has been taken from them by force and then occupied by the enemy.[44] They must now live, vastly out-numbered, in the midst of that original enemy.[45] No possibility or hope of eventual independence exists, as it did in, say, Africa, India or South America. The conquerors' awareness of Aborigines' true situation and its torments meanwhile remains limited. Having been stripped of their lawful land, and with it the ecological prosperity and cultural confidence that had been theirs for millennia, Aboriginal people are now subject to pervasive prejudice, perceived as being 'backward', blamed for living on welfare, for not pulling their weight and earning their own living. (This is by no means a prejudice shared by all non-Indigenous Australians – Aboriginal contributions to the arts, literature and public life are prolific and highly esteemed in Australia – but it is unquestionably the historical backdrop of Aboriginal politics today.) For their own part, Aboriginal people remember a culture so deep and binding as to be beyond the ken of outsiders, though now sometimes in a state of near-collapse in the absence of the material conditions which made it adaptive and functional. They waver between this memory and the exasperated urgings of the 'mainstream' to adapt to a 'modern' way of life based on a 'modern' (ie Western) worldview – which, in colonial blindness, this 'mainstream' considers to be the only worldview that can be taken seriously. Such a combination of

43. ibid.

44. There is a distinction in English law between a 'conquered' and a 'settled' colony. A conquered colony is obtained by force from its prior inhabitants. A settler colony is obtained via occupation of a previously uninhabited territory, or a land inhabited by peoples in such a 'primitive state of society' that they lack laws under which to declare the territory their own (*terra nullius*). See Justice Blackburn's discussion in the link below of the distinction as laid down by Blackstone in 1765. By erroneously characterizing Aboriginal people as existing in such a primitive state of society, the Crown chose to represent the colony as settled rather than conquered, with endlessly ramifying legal and social consequences. Despite these self-serving legal conceits, conquest seems to be the actual reality, at least until it is qualified by treaties or other legal instruments. See Australian Law Reform Commission, 1986, Recognition of Aboriginal Customary Laws, ALRC Report 31, Section 64 <https://www.alrc.gov.au/publication/recognition-of-aboriginal-customary-laws-alrc-report-31/5-recognition-of-aboriginal-customary-laws-at-common-law-the-settled-colony-debate/the-settled-colony-debate/>.

45. According to the 20016 Census, the Aboriginal population comprised 3.3 per cent of the total Australian population. See <https://theconversation.com/census-2016-whats-changed-for-indigenous-australians-79836>.

injury and insult – dispossession and disdain – can hardly fail to wreak havoc on a people's morale and render them susceptible to manipulation.

Enter the miners. The Traditional Owners know they cannot, under Native Title legislation, veto mining projects on their land.[46] At most Traditional Owners can impose conditions – requesting that installations be located so as not to destroy sacred sites, for instance – as well as negotiating jobs and economic packages. Might not a package of $1.5 billion appear to a small Aboriginal community to be a fast track to 'independence' – an economic form of the self-determination that political independence has delivered to once-colonized peoples in other countries? Might it not seem to offer a way out of their impasse, enabling them to invent themselves anew? With no possibility of returning to the forms of economic praxis out of which their traditional Law and culture grew, will Aboriginal communities not have to go forward into a new phase of cultural and economic adaptation, which a cash lifeline of $1.5 billion would presumably enable them to accomplish with integrity and dignity? Once their 'independence' was regained in this way, their pride, vigour and sense of identity restored, could such communities not figure out new ways to care both for themselves and their land?[47]

Now enter environmentalists. In a new departure from the history of colonial arrogance towards Aboriginal tradition, they enthusiastically affirm the custodial tenor of that tradition, its rootedness in land and its core obligation to care for country. Indeed they seem eager to learn from Aboriginal land-lore, comparing it favourably with their own conservation philosophies, such as those of ecocentrism and ecological justice mentioned earlier. But tradition must of course be underpinned by the economic praxes that gave rise to and sustain it. A tradition severed from an economic basis is untenable, however cherished. Economic enterprises such as eco-tourism and Indigenous arts and crafts are cited by environmentalists as businesses that might generate income in ways consistent with large-scale conservation. But whether such industries could support entire communities in the Western lifestyles that have, irreversibly, been thrust upon them seems doubtful. Some local Aboriginal defenders of country, such as Nyikina Traditional Custodian, Anne Poelina, do themselves also argue for such 'culture and conservation' economies. Poelina speaks of 'green collar jobs in eco-system services of tourism, fire, land, water and natural resource management because these programs will provide culturally appropriate sustainable employment for local people'.[48] Nevertheless, these proposals as yet remain decidedly sketchy, and conservationists have done little to flesh them out. The allegiance that conservationists offer may thus indeed rest at least partly on expedience.

46. See 'Exploring: Australia's Future', Standing Committee on Industry and Resources Parliamentary Report, 15 September 2003, Chapter 7: 7.3, 7.4 <https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=isr/resexp/contents.htm>.

47. In her biography of visionary Central Australian activist and advocate, Tracker Tilmouth, Alexis Wright emphasizes that this was the guiding insight of Tracker's life. He worked for decades, right across Aboriginal Australia, to establish on country innovative projects with an economic return. These projects were not always consistent with Law, in the sense that they included mining and other projects detrimental to ecology, but Tracker understood that Aboriginal people would never be able to preserve their cultures nor hence protect their country unless they discovered new economic bases for those cultures: A Wright, *Tracker: Stories of Tracker Tilmouth* (Giramindo, Artarmon NSW 2017).

48. M McDuffie and A Poelina, '"Standing Together for Kandri" – Through the Kimberley Song Cycle of the Lurujarri Trail and the Dinosaur Track Ways'. Presented at the Songlines vs. Pipelines? Mining and Tourism Industries in Remote Australia Conference, 28 February 2012, The University of New South Wales, Sydney.

Between miners and environmentalists then, Aboriginal people find themselves in a hard place. And the cash-for-consent jackpots held out by industry are in fact of questionable long-term value. With the rifts that such schemes generate – between successful and unsuccessful claimants, Traditional Owner groups that achieve representation in the Native Title process and those that do not, individuals who want to take the money and individuals, sometimes from the same family, who do not – schemes such as these sow anger, envy and discord in communities already shredded by the structural violence of colonialism/conquest. Anne Poelina confirms that the effect of native title laws is to generate conflict, manipulation and division within and outside of Aboriginal Native Title claimant groups.[49] Rodney Augustine, a Jabirr Jabirr man and great-great-grandson of Walmadan himself, opposed the gas hub but found himself estranged from his family in consequence.

> My own family now is … like we were close, me and my brother … but now it is very awkward sitting down and talking to him. I remind him: 'see what the mining companies bring to our community'. … They come in there and they promise you this and that. But really, they're not listening to you. They just get your ok … and then they do whatever they want.[50]

The promise that such hand-outs will 'lift Aboriginal communities out of poverty', securing for them education, medical and social services on a par with those of the rest of the nation is likewise made in bad faith. Like all Australians, Aboriginal people are already entitled to such services under the existing public purse. Provision of quality education and health care should no more require the compromise of core cultural values than delivery of services to other regional communities does. Anne Poelina writes that there 'is no evidence that transferring Aboriginal communities from government welfare to corporate welfare (royalties) improves the lives of those people'.[51] In the case of the Walmadany-James Price Point deal, '[m]ost of the money was to be existing services rebadged and the new money mainly for improving enterprise, health and education services which the government should be doing for ordinary Australian citizens without the traditional custodians having to give up their country to industrial development in order to receive basic human services'.[52]

Moreover, by trading away the ecological integrity of country, Aboriginal people would have risked giving up forever the bedrock of their Aboriginal identity. With country industrialized, they might have found that although their own genetic identity and networks remained intact, the larger identity that defined them as Aboriginal would have been destroyed. This larger identity, constituted by multilateral Lawful relationships with all the different kinds of beings that collectively make up country, might have dissolved when those beings were displaced by development. In this sense, cash might have achieved what generations of paternalistic policy could not: assimilation. And what would keep people in their traditional communities then? As assimilated Australians, might they not have before long joined other Australians in more convenient locations – in cities and regional centres? As individuals they might have survived, perhaps even prospered. But as Aborigines they would not.

49. ibid.
50. J Horgan, 'A Conversation between Rodney and Susanna Augustine and Earth Song' (2013) 2 Earthsong 2, 5 <https://search.informit.com.au/documentSummary;dn=238784082688709;res=IELHSS>.
51. McDuffie and Poelina (n 48).
52. ibid.

A strong Aboriginal case for withholding consent and resisting ecologically injurious forms of development does then exist in addition to the painfully conflicted case drawn from adherence to traditional Law. But if environmentalists are to act as bona fide allies to Aboriginal resistance, they must surely for their part acknowledge what Aboriginal people urgently require: a new economic basis for tradition, and support in their struggle for sovereignty. The struggle for sovereignty is crucial because the denial of sovereignty, tied up as it was with the historical declaration of Australia as *terra nullius*, was the cornerstone of the Crown's legitimation of Aboriginal dispossession.[53] To ignore these bedrock needs, and to contest Aboriginal consent to development on the grounds that securing the integrity of the biosphere is a 'greater good' than merely securing economic benefits for a tiny community of marginalized humans is for conservationists to risk compromising their own moral integrity – and hence ultimately the integrity of their own ethical project.

The moral question at issue here is not reducible to the question of to whom is more owed – the Earth or an Aboriginal community. From an ecocentric perspective, clearly more is owed to Earth, by many orders of magnitude. But since not everyone shares an ecocentric perspective, or finds it to be self-evident, another moral question at play in this situation is the question of when and under what circumstances it is justifiable to insist on one's own ethical convictions at others' expense. It is after all one thing for conservationists to adopt an ecocentric perspective for themselves and to argue that their own society ought to adopt it too. It is another thing to insist that all societies should adopt it. Insisting on such adoption is particularly problematic when the conservationists in question, though generally members of the affluent West, nevertheless argue that groups impoverished and marginalized as a result of Western colonialism should be disadvantaged against their own wishes in deference to a Western – in this case, conservation – ethic. When the conservationists themselves are in no way disadvantaged by the proposed moral intervention, this ethical dubiousness is compounded. It is even further complexified when the Aboriginal party in this situation has been forced by colonialism to abandon traditions that were themselves at one stage deeply akin to ecocentrism in their general orientation.

In other words, in conflicts between conservationists and Aboriginal parties, the question of standpoint matters. In so far as conservationists are outsiders to Aboriginal Australia and directly or indirectly represent the colonizing party, they must be scrupulously reflexive in their relations with Aboriginal stakeholders if they are not to compromise their own ethical ground.[54]

3 INDIGENIZING CONSERVATION

So how might environmentalists approach Aboriginal parties as potential allies in conservation struggles while at the same time acknowledging their own moral standpoint, their ambivalent positionality as heirs to conquest, and their consequent

53. The demand for recognition of sovereignty is foremost amongst the demands included in the 2017 *Uluru Statement from the Heart*. The first line of the Statement reads: 'Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs.' The demand is repeated throughout the document. See Uluru Statement from the Heart, 2017 <https://www.referendumcouncil.org.au/sites/default/files/2017-05/Uluru_Statement_From_The_Heart_0.PDF>.

54. Scholars on the Left, particularly in post-colonial studies, are sometimes critical of conservation precisely on account of this perceived lack of political reflexiveness. For a recent critique, see T Neale, *Wild Articulations: Environmentalism and Indigeneity in Northern Australia* (University of Hawai'i Press, Honolulu 2017).

obligation to support Aboriginal sovereignty? How might conservationists help to build a new economic base for Aboriginal cultures, institutions and traditions?

Firstly, it is clearly incumbent on conservationists, as it is on all Australians, to step up to the truth of genocide, a truth that has been hiding in plain sight for generations but is now finally coming more fully into consciousness for many non-Indigenous Australians as the demand for truth-telling about Aboriginal history becomes more insistent.[55] Conservationists must surely, in other words, take an active part in this awakening, by factoring into their campaigns and policies: (i) political recognition of Aboriginal sovereignty; (ii) insistence on state and federal treaties or equivalent legal agreements with Aboriginal peoples; and (iii) Aboriginal entitlement to reparation.

Conservationists can also increase their material support of Aboriginal constituencies by campaigning for the further opening up of environmental bureaucracies and organizations to Aboriginal staff. A significant programme of Aboriginal rangers, trained to carry out environmental management on Aboriginal lands, is already in place in Australia. The Indigenous Ranger Program is deployed in Indigenous Protected Areas (IPAs) across the continent. As IPAs account for a total of 65 million hectares – 44% of the National Reserve System – this programme already provides a first step towards a fuller investment of Aboriginal communities in conservation.[56] However, IPAs are dramatically under-funded relative to Government Protected Areas.[57]

Even were funding equitable however, the Indigenous Ranger Program is very much ancillary to the conservation establishment in Australia. Rangers are trained in what Hannah Bell in collaboration with Senior Lawman, David Mowaljarlai, calls 'two-way thinking'[58] – Western science and Traditional Indigenous Knowledge – but the overall knowledge paradigm to which Indigenous conservation remains accountable is scientific and bureaucratic.[59] Non-Indigenous conservation scientists are not routinely trained to become 'two-way thinkers'; at best, elective courses on Indigenous culture may in some instances be included in natural resource management or parks management training programmes in Australia.[60] 'Two-way thinking', understood as the province only of Aboriginal rangers then, while certainly preferable to an exclusive insistence on Western thinking, does not place the hegemony of Western thought and frames of relevance in doubt.[61] If the deepest root of Aboriginal disadvantage however is the as yet unassuaged cultural humiliation arising from the historical fact of conquest, conservationists might need, like other Australians, to be prepared to give up the colonial assumption of cultural superiority. Within a conservation setting this would entail not

55. See, for instance, Mark McKenna's essay, 'Moment of Truth' (2018) 69 Quarterly Essay. The insistence on truth-telling is another key tenet of the Uluru Statement.
56. See <https://www.countryneedspeople.org.au/what_are_indigenous_rangers> accessed 31 October 2020.
57. N Preece, 'Indigenous Rangers Don't Receive the Funding They Deserve – Here's Why', *The Conversation*, 8 May 2019.
58. See M Porr and HR Bell, 'Rock Art, Animism and Two Way Thinking' (2012) 19 Journal of Archaeological Method and Theory 161–205.
59. ibid. For an example of the terms in which individual Indigenous Ranger Programs are rendered accountable, see Ranger Program Development Strategy, Central Land Council 2015, <https://www.clc.org.au/files/pdf/CLC_Ranger_Program_Final_Report_UPDATE_1_05_15.pdf> accessed 31 October 2020.
60. C Finnegan, 'Undergraduate Curricula in the USA, Canada, New Zealand and Australia: Are We Missing the Mark on Indigenous Peoples and Parks?' (2020) 26(1) Parks 25–35.
61. J Bradley and S Johnson, 'We Sing Our Law: Is That Still TEK?' (2015) 11 PAN Philosophy Activism Nature 1–22.

merely admitting Aboriginal people into a pre-configured conservation establishment but a preparedness, on the part of conservationists, to relinquish their own status as experts and to undertake retraining in conservation from the perspective of Aboriginal tradition.[62]

In this scenario, conservation sciences, as currently understood and institutionalized in the modern academy, would no longer provide the defining framework for environmental knowledge. 'Concessions' to Aboriginal knowledge would amount to much more than the occasional deployment of Aboriginal rangers and the selective inclusion of those aspects of local Indigenous knowledge that conform to the underlying assumptions of Western science.[63] The much more fundamental re-visioning of conservation here envisaged would instead involve a thoroughgoing interrogation of the underlying assumptions of science, together with a preparedness to engage in altogether new epistemologies – epistemologies perhaps as new, relative to the currently received scientific method, as the mathematical method of seventeenth-century science was to the Aristotelian epistemology that preceded it.

While I do not have space here to detail the nature of such new epistemologies, I have elsewhere examined this question by reference to the role of feeling in knowledge.[64] Any contrast between science and Aboriginal ways of knowing must highlight this role. Traditional Aboriginal teachers, such as Senior Law Men, Bill Neidjie, David Mowaljarlai and Paddy Roe, for example, emphasize that Aboriginal ways of knowing cannot be extricated from feeling.[65] One engages in such ways of knowing not by adopting a stance of detached observation and inference, as Western scientists do, but by, as Mowaljarlai puts it, attentively 'walking the land'.[66] By this I take Mowaljarlai to mean that we should walk the land not merely in a literal sense but in a paradigm-shifting epistemological sense as well, with heightened attention to pattern, connection and communicative intent. Rather than stepping back from the land, as the observer does, we are enjoined actively and agentively to enter it, address it and seek to enlist it as a collaborator who can and will join forces with us in some vital venture.

Were the epistemological lens of conservation to be enlarged in this way, new ontologies might come to light, ontologies infused with sentient and communicative elements and dimensions of landscape hitherto invisible to science. Through such a lens, the ever-constellating and re-constellating patterns of accommodation and creative recursion described in terms of Law might likewise come into focus, evoking in the trainee conservationist affective as well as cognitive responses, or rather a blended affective-cognitive response, the kind of response that 'being on country' evokes in Aboriginal custodians. Such a response is markedly different from the affectively neutral attitude built into the methodology of science. Conservation policy and practice would need to be revised and rewritten in light of such an apprehension of Law.[67]

62. B Pascoe, *Dark Emu, Black Seeds: Agriculture or Accident?* (Magabala Books, Broome 2014); M Lucashenko 'The First Australian Democracy' (2015) 74 Meanjin 3; WEH Stanner, 'The Dreaming', reprinted in *White Man Got No Dreaming: Essays 1938–1973* (Australian National University Press, Canberra 1979).
63. Bradley and Johnson (n 61).
64. Mathews (n 28); F Mathews, 'From Wilderness Preservation to the Fight for Lawlands' in R Bartel et al. (eds), *Rethinking Wilderness and the Wild: Conflict, Conservation and Co-existence* (Routledge, New York 2020).
65. Black (n 15).
66. ibid, 51.
67. Mathews (n 26).

Since Aboriginal epistemologies are essentially local, enculturation into Law would necessarily take place in situ, on country, rather than in centralized educational facilities such as universities.[68] Such knowledge can also only be fully transmitted in relevant Aboriginal languages, since many of the descriptive and conceptual resources of those languages, particularly as they pertain to country, cannot be adequately translated into English.[69] This is a point underlined by the discourse of biocultural diversity, according to which the ecological specificities of particular environments can often only be captured in locally evolved languages. When those languages are lost or ignored, their associated knowledge and know-how is likewise lost: without the capacity to adequately describe the environment, the capacity to manage it competently disappears.[70] In light of this, local Aboriginal communities may be re-visioned, and partly reorganized, as places of instruction – educational centres in their own right, with a plethora of new professional roles created within communities to serve this purpose. This would in itself add a major new dimension to the culture and conservation economies foreshadowed by Anne Poelina.[71]

To propose Indigenizing conservation in this way in Australia, and perhaps in other countries in which Indigenous knowledges endure, is not of course to suggest that the vast edifice of science should be abandoned. Embedded as it is in the deep structure of modern industrial civilization, science is, with all its immense powers as well as its limits, here to stay. What does need to be abandoned however, from the present point of view, is the assumption that science is the measure of all knowledge. In so far as we have accepted this reductive assumption we may have limited what we can know about the nature of reality. Indeed, in the context of conservation, this assumption might have rendered invisible the most crucial aspect of reality, which is, according to Law, that reality calls us into intimate relationship with itself.[72] To Indigenize conservation would then be to profoundly re-set the dials of the entire project, relegating science to the status of means – a source of tools and strategies – to ends ultimately appointed by Law.

How might conservation thus re-visioned in accordance with Aboriginal epistemologies and ontologies be imagined? West Australian scholars, Sandra Wooltorton, Len Collard and Pierre Horwitz offer a detailed illustration of such an approach. In their 2019 essay, 'Living Water: Groundwater and Wetlands in Gnangara, Noongar Boodjar',[73] they construct a model of how the now degraded and depleted Gnangara groundwater ecosystem in the south-west of Western Australia might be restored if restoration were framed in the narrative and place-based terms of the local Noongar language as well as in conventional scientific management terms. Offering many examples of how Noongar descriptors by-pass the human–nature dualisms deeply

68. Black (n 15); S Wooltorton, L Collard and P Horwitz, 'Living Water: Groundwater and Wetlands in Gnangara, Noongar Boodjar' (2019) 14 PAN: Philosophy Activism Nature 5–23; Graham (n 16).
69. J Bradley, 'Can My Country Hear English? Reflections of the Relationship of Language to Country' (2017) 13 PAN Philosophy Activism Nature 68–72; S Wooltorton and L Collard, 'The Land Still Speaks: Ni, Katitj!' (2017) 13 PAN Philosophy Activism Nature 57–67.
70. L Maffi, *On Biocultural Diversity: Linking Language, Knowledge and Environment* (Smithsonian Institute Press, Washington DC 2001).
71. McDuffie and Poelina (n 48).
72. Graham (n 16); O Emmanouil, 'Listening to the River's Law' in G Van Horn, R Wall Kimmerer and J Hausdoerffer (eds), *Kinship: Science and Spirit in a World of Relations* (forthcoming 2021).
73. Wooltorton et al. (n 68).

entrenched in the structure of the English language, the authors draw these descriptors into dialogue with the categories of science. To view the Gnangara ecosystem in these hybrid terms would, they explain, invite the prospective conservationist into 'communication with energies and spirits of place' and engender 'an attitude [of] attention, devotion and kindness' in lieu of the exclusively detached perspective of environmental science, in the process revitalizing the entire project of conservation.

Wooltorton et al. are explicit that their approach is programmatic: '[w]e recommend learning local Aboriginal languages and place-based knowledges in environmental sciences at all levels, and in all schools …'.[74] They construe the project of reconfiguring conservation through the lens of Aboriginal thought as a process of 'reciprocal colonisation' that would bring about both ecological healing and healing of the relationship between Aboriginal and non-Aboriginal Australians simultaneously.[75]

4 CONCLUSION

Conservation then, duly Indigenized, could serve as the Trojan horse by which Aboriginal ways of thinking enter and begin to transform mainstream Australian consciousness, where such a transformation is surely a prelude to any era of justice for Aboriginal people. For if justice is ever to be won by Aboriginal people in Australia, it must begin with the bridging of the epistemic and ontological gulf between Western and Aboriginal systems of thought. It must derive, in other words, from respect born of understanding the great depth and wisdom of traditional Aboriginal knowledge and Law.[76] Not only is reconciliation between Aboriginal and non-Aboriginal people be incipient in such understanding, but assent to Aboriginal sovereignty would emerge therefrom, since when Aboriginal systems of thought are properly fathomed, the status of Aboriginal societies as self-governing and legally constituted under their own systems of customary law would by the same token be recognized.

From such assent to sovereignty, and to the call for treaties or equivalent legal arrangements that such assent implies, a readiness to allow Aboriginal territories to be managed in accordance with Aboriginal customary law would follow, where this would generally entail a presumption in favour of conservation. As John Borrows, writing in a Canadian context, explains:

> Treaties grant the Crown rights to use lands and resources and to set up governing powers. The Crown's rights are limited, because any silence in treaty agreements should be construed as leaving intact all original Indigenous entitlements. This includes the environmentally based ways of relating to the earth embedded in their own practices, customs, and traditions. When interpreted broadly, treaties should be seen as reserving for Indigenous peoples every power of governance, and every resource not explicitly given to the government through these agreements. They should also be regarded as reserving the right and freedom to act in accordance with their environmental stewardships.[77]

74. ibid, 6.
75. ibid, 6; L Stocker, L Collard and A Rooney, 'Aboriginal Worldviews and Colonisation: Implications for Coastal Sustainability' (2015) 21(7) Local Environment 1–22.
76. Black (n 15); Watson (n 24); Graham (n 16).
77. J Borrows, 'Earth-Bound: Indigenous Resurgence and Environmental Reconciliation' in M Asch, J Borrows and J Tully (eds), *Resurgence and Reconciliation: Indigenous-Settler Relations and Earth Teachings* (University of Toronto 2018) 63.

Moreover, since treaties or other legal arrangements based on acknowledgment of sovereignty imply reciprocity and collaboration between treating parties, entering into such agreements, under the conditions that currently prevail in Australia, would open the way to the gradual reframing of Australian law in response to Aboriginal customary law. This is because sovereignty acknowledged in the absence of a separate state can only mean shared jurisdiction over co-inhabited territories. When Australian law becomes progressively co-formed with Aboriginal Law in this way, reconciliation not only with Aboriginal people but with the land itself will come to inflect the Australian outlook. As Borrows again explains, 'When Indigenous language, culture, history, and traditional knowledge are respected, standards for judgment are created that protect Indigenous environments. In the process, national or provincial regulations adapt to local circumstances to allow Indigenous legal insights to shine through'.[78] Reciprocal colonization in action!

Adding the requirement of Aboriginal justice to the remit of conservation would unquestionably enlarge the actual, hands-on task of conservation in Australia. In regions like the Kimberley, conservation campaigns would need to begin long before specific sites of contestation were identified. Just as mining companies and other extractive industries work in such regions for years before their intentions to undertake specific activities suddenly appear in the press, so conservation organizations need to be working with Aboriginal people long before conservation flashpoints, such as that of Walmadany-James Price Point, occur. This work would include adapting conservation policies to local articulations of Law and helping to develop local culture and conservation economies via the re-visioning of Aboriginal communities as core education centres. A genuine alliance with Aboriginal people cannot be struck in the heat of campaigns but must be prepared long in advance of the battle. To re-construe conservation per se as an inherently Aboriginal-led project, both philosophically and, where feasible, institutionally speaking, would surely go a long way towards assuring this alliance. Although the effort involved in assuring the alliance would indeed enlarge the task of conservation, this effort would hopefully be repaid in the long run by the huge increase in moral force it would bestow on conservation and by the shift towards ecological justice it would induce in the consciousness of the larger community.

78. ibid, 60.