

RELATIONSHIP AND COMMUNALITY: AN INDIGENOUS PERSPECTIVE ON KNOWLEDGE AND EXPRESSION

*Maroochy Barambah*¹

PROFESSOR ANNE FITZGERALD

We're going to talk about indigenous peoples and law, and this session is going to be chaired by Dr Terry Cutler. I don't think Terry needs any further introduction to you, and I'm sure this is going to be a fascinating session.

Maroochy Barambah and Ade Kukoyi have been known to me and Brian for many years. In fact I actually first met Maroochy in New York when she was studying opera singing there. The film in which she starred, *Black River*, had actually just won the Paris Opera Film of the Year Award. The commentator for this session will be Professor Susy Frankel from New Zealand, who's been very much involved with indigenous IP issues in New Zealand.

Terry, over to you.

DR TERRY CUTLER

Thank you Anne.

It gives me huge pleasure to chair this session. At the beginning of our conference we had a very moving welcome to country. Then we tend to proceed to marginalise, or make very unwelcome, any discussion that isn't within an Anglo-Saxon, or a Commonwealth Club framework. I think one of the great gaps in public policy discussion in Australia is our neglect of this whole area of traditional knowledge and the role of indigenous people in intellectual property discussions. This is even worse I

¹ Maroochy Barambah is an Australian Aboriginal mezzo-soprano singer and songwoman and law-woman of the Turrbal-Dippil people from the Brisbane region. She performed in the acclaimed Australian Metropolitan Opera production *Black River* in 1989.

think as we sit in a region where this is a very real issue. So this session is I think very important in putting a neglected area on the agenda.

Let me just briefly tell you a story about a discussion I had recently that really brought the importance of this home to me. It was with a fabulous Indian scientist who, a few years ago, saw that an American drug company was trying to patent some of the components of turmeric, a traditional herbal remedy in India. So he challenged the patent, and he did so on the basis of digging out all these old Sanskrit scripts that referred to traditional healing, and established through those scripts the prior art that had existed. Now of course when we get to areas of oral tradition, and when we get to areas like music, performance, that is so much harder.

I'm really delighted to welcome Maroochy and Ade who are going to talk about what they've been doing. So can you please welcome them.²

MAROOCHY BARAMBAH

Let me begin by paying my respects to the Ngunnawal people and the ancestral spirits of this land for letting us be here in their country. I thank Brian Fitzgerald and his colleagues for their tremendous effort in organising this conference, and inviting me to share some of my knowledge and experience in this jurisdiction with all of you.

I am the Songwoman and the Law-woman of the Turrbal people – the original people of Brisbane. I will share with you later about my role. For the benefit of our delegates I'll just tell you a bit about my country. I was going to show you where it is on a map, but we had some problems trying to locate one. Nonetheless, I'll talk about it now. Our ancestral homeland extends from Elimbah Creek/Beerburrum Creek in the north, to the Logan River in the south; from the Pullenvale catchment in the west, and Woogaroo Creek in the south-west; to the Moreton Bay in the east. Within the Turrbal tribe were smaller family groups which are often referred to as "clans". Today, rather than use the term "clans", Aboriginal Australians use "mobs". Some of you may have heard of this term.

Within the Turrbal country, for example, we had the *Daki Yakka* mob which occupied the Brisbane City to the Pine River in the north; the *Dalaipi* mob which occupied the North Pine/Caboolture areas; the *Mulrobin* mob which occupied the southside of the Brisbane River / Coorpooroo areas; the *Yerongpan* mob which occupied the Yerongpilly / south-west Brisbane area; the *Chepara* mob which occupied the area

² Maroochy Barumbah presented with Ade Kukoyi, founding president of the Australia-Nigeria Business Council, and native title lawyer assisting the Turrbal people. Ade answered questions after Maroochy's speech.

south to Logan; and the *Ningy Ningy* mob which occupied the Redcliffe/Deception Bay and the Toorbul Point areas. That is our ancestral homeland.

In approaching this topic, I felt I should begin by sharing with you some of the fundamental principles of the Turrbal system of traditional laws and customs. It is only within this context that our traditional knowledge, expression and what I refer to as “land-people relationship” can best be understood.

Our laws are unwritten – they are kept in songs, stories, dances, paintings ... etc. and passed down from one generation to the next.

In my view, a great deal of misconception continues to exist in this area, the more so among contemporary writers such as anthropologists, and then there are the historians and others, who are merely curious about Australian Aborigines. Let me say up-front, and with all due respect to the delegates here today, that, unless you live for a considerable period of time in our community, you will not fully appreciate, as well as comprehend, the true workings of our traditional laws and customs. There is an incomparable gap between what I call “living it” and “merely observing or examining/analysing it”.

TURRBAL TRADITIONAL LAWS AND CUSTOMS

Certain elements constitute our system of traditional laws and customs, such as: *Bloodline Connection to Country; Invitation to Enter Country; Permission to Enter Country; Who can Speak for Country; Kinship system; Marriage; Totemic identity; Proprietary issues*. In essence what we have is a very complex layering of numerous elements, processes and inter-relationships that are kinship-based and totemic-related. What does this mean I hear you say?

In short, our system of customary law is underpinned by religious practices, beliefs and values which are pre-determined by one’s totemic identity at birth. It is completely different from the Anglo-Australian legal system and pointless somewhat for anyone to try to make comparison. Obviously, I cannot possibly share all you need to know in my allotted time. My intention is to focus mainly on some key aspects. Before discussing our kinship system, let me turn my attention first to my role as a Songwoman.

SONGWOMAN’S ROLE

As a Songwoman and a Law-woman, it is my responsibility to educate, inform and enlighten other members of our community in customary law matters. I also have the responsibility to protect as well as enforce our laws and customs. Under Turrbal traditional laws and customs, our laws are kept in songs, stories and dances. Those

songs, stories and dances have come down through generations – dreaming stories that we still hold, that have been handed down to us.

I was born on a reserve because the Queensland Government had an Act called *Aborigines Protection Act 1897* (“APA”). Under the APA, the Queensland authorities went around the State rounding up people deemed to be of Aboriginal descent, and dumped them unceremoniously onto Reserves at the turn of the twentieth century. This policy continued up until the 1967 Referendum. There were three main Government reserves, namely: Palm Island, Woorabinda and Cherbourg. I was born on Cherbourg Reserve. In essence, several people were taken away from their country as far away as Cape York to Cherbourg.

However, some still managed to retain their stories. Ironically, the same 1897 APA that was meant to remove Aborigines from their ancestral homeland to Cherbourg and elsewhere was also instrumental and contributory to the Turrbal, Gubbi Gubbi and Wakka Wakka Peoples’ continued physical connection to country. Unlike what happened with the Stolen Generation – where people of mixed race were taken away from their parents and ties severed completely from country, our cultural network and activities flourished on the Cherbourg Reserve.

In the case of the APA, it was mainly full bloods and half caste that were removed and taken to the reserves. If you had less than 50% Aboriginal blood in you, you didn’t qualify for protection under the APA – this was the *Assimilation policy* of the day. So, today there are some people of Aboriginal descent who are going around now trying to reconnect with their Aboriginal ancestry, but they’ve lost that connection. Some I suppose will never make that connection, but there are others who will, or whose old people may reconnect with them spiritually and be able to point them in the right direction – this is very much a personal journey for such people in life. As a Songwoman, I have been privileged to assist some individuals over the years in their search to reconnect.

I myself was taken to Melbourne – some 2,000 miles away from Cherbourg. However, I maintained my contact and connection with my Elders and family.

It is not uncommon today to find Aboriginal people wanting to go back to that place where their old people came from – it’s a spiritual calling. Yeah, that’s something that I’ve experienced myself, and I’ve seen it with some other people. I also know that there are lots of other people still searching. That’s just a little side story of land-people relationship. That old connection with Aboriginal laws and customs, with the songs and dances, people have to get permission to do this, you have to talk to certain elders. We have certain protocols within our society, even though we’re a city-based, traditional owner group.

On the question of permission to enter country, just a couple of days ago, I was filling up petrol in my car at a petrol station. A gentleman came up to me, shook my hand

and asked me: “What are you doing now”? I replied: “I’m working with my mum on her native title claim because we are the original people from Brisbane”. He then asked me “Oh, can I stay in your country”? “Can I stay here”? He was Aboriginal. Initially, it didn’t dawn on me exactly what he meant by “can I stay in your country”.

Upon clarification, I realised that he was seeking permission from me as a Turrbal Songwoman to live in my country. So things are gradually changing, I believe, for the better. We now receive this type of request from people in Brisbane all the time – “Can I stay in your country?” I don’t think that would have happened that much pre-Mabo. These days, I perform many traditional Welcome to Country ceremonies in Brisbane to give permission to visitors entering our ancestral homeland in Brisbane.

I now turn my attention to other important aspects of our laws and customs.

KINSHIP SYSTEM

Our kinship system comprises the Turrbal and the Dippil people. The people who comprise the Dippil are commonly referred to today as the Gubbi Gubbi (Gabi Gabi or Kabi Kabi) and the Wakka Wakka. The Gubbi Gubbi People are from the Wide Bay area and the Sunshine Coast area of Queensland; whilst the Wakka Wakka People are from the Burnett River area. The Turrbal, Gubbi Gubbi and Wakka Wakka Peoples belong to the same kinship, and historically marriage was common among these three different tribes.

A strong cultural network also exists within this kinship – for example, during *Kurbingai*³ ceremony at Redcliffe. Within these groups are smaller groups. “Hard yakka” got its name from our group. “Yakka” means to work, to work hard. I suppose the name came into English when Brisbane was a penal settlement, Moreton Bay, and as we say in Queensland, old Murri/Goori probably saw the convicts chipping away there, trying to break the stones to make the roads and things like that. So it was, that one of the very early words that the broader, non-Aboriginal people of Australia, got to know, from around the Brisbane area, was “yakka”.

That was one of our words that had become very much a part of the Australian vernacular these days. It’s also become a brand name of a successful clothing line. So, maybe we should be looking at something there in copyright terms. No, just joking. Daki Yakka was the name of my great, great, great, great grandfather. His name gradually became anglicised to the “Duke of York”, and if you look in history books of early Queensland in particular, and maps of Aboriginal tribes, you’ll see the reference to the Duke of York tribe. Daki Yakka was the head man of the Brisbane tribe, and

³ See C.C Petrie, *Tom Petrie’s Reminiscences of Early Queensland*, UQP, 1904, pp. 37–38

back in the 1830s, 1840s, and 1850s he was called the Chief of the Brisbane tribe. I'm his direct descendant.

DREAMING TRACKS

Dreaming Tracks and *Dreaming Sites* are an integral part of our connection to country (the land-people relationship). Embedded within the Dreaming Tracks and Dreaming Places is our belief system which regulates what we ought to do and not do. Under our laws and customs for example, places such as Fisherman Island (Yangan), Mt Coot-tha (Kuta) and Spring Hill (Taggan) – remain culturally significant to us irrespective of any structure/s or development which may be erected upon them. At this point in time, I do not know if you are aware that the Port of Brisbane situated at Fisherman Island is on the list of assets earmarked for sale by the Bligh Government in Queensland. The Turrbal People are opposed to this proposed sale because Fisherman Island is a *healing site*⁴. Further, such an act contravenes our traditional laws and customs.

So, our Dreaming Tracks are very important; the kinship system is also very important. Our cultural network is most important. Historically, in southern Queensland, there's a place called the Bunya Mountains where most of the tribes travelled to for the triennial Bunya Festivals. During this time, message sticks were sent by the host tribe to other neighbouring tribes, and thus were allowed to cross their tribal boundaries in order to be able to travel to the Bunya Mountains.

TOTEMIC IDENTITY

Maroochy means the “red nose one” in Turrbal language. It refers to the black swan which is my totem. By this, I have the responsibility of taking care of sites along the Brisbane River dreaming track to Maroochy River on the Sunshine Coast. Consequently, I frequently visit Dowse Lagoon at Sandgate (north of Brisbane) where black swans abound aplenty. Under our traditional laws and customs, black swans are my spirit sisters and brothers.

Let me conclude my presentation by saying that I am hopeful that more non-Aboriginal Australians will get to learn about our laws and customs. In doing so, they get to understand it, and in the process get to show more respect for our beliefs and value system. We don't expect non-Aboriginals to fully comprehend every aspect of our traditional laws and customs. Personally, I am of the view that we are at a stage

⁴ See C.C Petrie, *Tom Petrie's Reminiscences of Early Queensland*, UQP, 1904, pp. 65–66. Traditional knowledge possessed by the appropriate Turrbal People corroborates Petrie's accounts.

where the Anglo-Australian law and our traditional laws and customs are trying to co-exist. Whether the two systems meet in the middle or not remains to be seen. We are all trying to figure out where the pendulum should sit. Perhaps time will tell. That would go on, I think for some time yet.

Thank you all for listening.