CHAPTER 8

Bridging the Gap or Crossing a Bridge?

Indigenous Knowledge and the Language of Law and Policy

MICHAEL DAVIS

In December 2002, Australia's High Court dismissed an appeal made by the Yorta Yorta Aboriginal people of Northern Victoria and New South Wales against an earlier federal court determination that had decided against their claim for native title under the Native Title Act 1993. These Aboriginal peoples' struggle for recognition of their enduring connections with their ancestral lands under Australia's native title laws had, in this hearing, depended solely on the outcome of complex legal deliberations regarding notions of tradition and custom.

The Yorta Yorta peoples' claim had been dismissed by a 1998 federal court decision on the basis, the judges held, that the "tide of history had washed away" the peoples' connection to lands and waters. The court's argument was that the traditional laws acknowledged and customs observed by Yorta Yorta today were not the same as they had been in the period before Europeans arrived. Laws designed to provide for indigenous peoples' rights and interests in land or native title, or for their participation in managing or protecting environment and biodiversity, incorporate terms and concepts intended to denote aspects of Aboriginal culture relevant to the particular law in question. Examples include *tradition, traditional knowledge,* and *law and custom.* Yet such terms are employed in legal texts in ways that present idealized, or fictive, notions of Aboriginal culture and society. They are derived not from indigenous ways of understanding and articulating the world but, rather, from Western intellectual worldviews and presuppositions.

This chapter explores some issues that flow from these problems in cultural translation by first examining and then challenging the often-held notion of a divide between indigenous knowledge and "Western" science. Although the term *Western science* refers in this context to all modes of knowledge and practice that form dominant epistemologies, have claims to truth or authority, and are said to be "derived from facts," this notion of scientific modes of knowing is as problematic as the construct of indigenous knowledge that is the subject of this chapter (Chalmers 1999).[1]

The idea of a divide between indigenous knowledge and Western science has been founded on a view that Western science and allied systems of knowledge have formed a dominant discourse that has obliterated, marginalized, or assimilated local, traditional, and indigenous traditions and discourses. In reviewing this divide, this chapter argues for a greater emphasis on the complexity, diversity, and plurality of indigenous knowledge and draws on some examples from the Australian literature to illustrate. The recognition of the "plurality of cultural systems and the diversity of environmental knowledge within and between cultures" (Grim 2001, liii) might also help with incorporating understandings of the dynamism and innovative and adaptive qualities of indigenous cultures into the dominant discourses of law, policy, and administration.

When advocating plurality in discourses and epistemologies, some caution is needed to avoid representing indigenous knowledge in law and policy either (1) as a set of essentialized or homogeneous entities that satisfy some stereotypical Western image or (2) as being utterly incommensurable, or radically other in an extreme relativistic position that renders cultural comparison untenable or negates any possibility of finding common ground or integrating different knowledge systems.

Indigenous knowledge and Western science are best regarded as complementary, or parallel, systems of knowledge, rather than as fundamentally incommensurable. As Turnbull points out, all knowledge systems can be regarded as localized, situated ways of making coherent systems of meaning from an array of heterogeneous, disorganized, and fragmented elements. The differences that can be observed cross-culturally among and between knowledge systems arise from their different power structures, modes of social and political organization, and the particular ways in which they seek to produce coherent systems (Turnbull 2000; also see Agrawal 1999).

Creating the Divide

Indigenous knowledge has historically been regarded in the dominant, Western society as inferior and marginalized, and as a devalued form of knowledge. This lowly status of indigenous knowledge is a result of the growth of dominant forms of knowledge concomitant with indigenous peoples' historical experiences of colonization and oppression. This marginalizing of indigenous knowledge also has resulted from the particular bureaucratic-administrative machinery of government, founded on the creation of hierarchies that privilege those forms of knowledge, such as science and law, that claim to purvey some truth and authority.

As Dei et al. (2000, 4) note: "The negation, devaluation, and denial of indigenous knowledges, particularly those of women, is the result of deliberate practices of establishing hierarchies of knowledge. . . . Institutions are not unmarked spaces of thought and action. Knowledge forms are usually privileged to construct dominance, and can be 'fetishized' so as to produce and sustain power inequities." Vandana Shiva (in Dei et al. 2000, vii) similarly asserts that "Western systems of knowledge in agriculture and medicine were defined as the *only* scientific systems. Indigenous systems of knowledge were defined as inferior, and in fact as unscientific."

Not only were indigenous knowledge systems seen as inferior, they were also "systematically usurped and then destroyed in their own cultures by the colonizing West" (Shiva, in Dei et al. 2000, vii). Within this framework of "knowledge hierarchies" (Dei et al. 2000), local and indigenous knowledge systems are rendered invisible or devalued by the dominant culture. This view is also seen in some conventional development approaches, wherein indigenous and local peoples are "developed" by those doing the developing. As a result, dependent relations are established and maintained through which indigenous systems of knowledge are usurped by the dominant developed discourses (Agrawal 1995; Antweiler 1993; Hobart 1993).

Knowledge systems and epistemologies may often be seen as jostling in apparent adversity and competition rather than striving for integration and mutual interdependence. There are many examples of competing systems, which are typically played out in contexts of claims for recognition. One example in recent years was the Hindmarsh Island case, in which Aboriginal women's knowledge relating to a certain place in South Australia was subordinated and denigrated by those advocating and supporting the proposed development of a bridge from the mainland across to Hindmarsh Island (Simons 2003).

The Tyranny of Dualism and Categories

Indigenous knowledges are subordinated not only through the formation of hierarchies but also by the perpetuation of binary oppositions of such categories as us/them, self/other, or we/they. The perceived dichotomies between "traditional" and "modern," and between "indigenous" and "nonindigenous," are further consequences of this pervasive dualism.

These dualities extend most significantly into discussions on modes of thought. In the history of anthropology and philosophy, a strand of debate has centered on the notion that differences exist between modes of thought of non-Western, "primitive" others and Western, "rational" modes of thought (Goody 1977). Allied to this is the Enlightenment idea of progress and the historically rooted shift from superstition to magic to religion to science. Indigenous peoples in this schema possess what have been regarded as exemplars of so-called primitive or irrational modes of thought. One problem in this debate over rationality and modes of thought is the specific categories that have been used to define and describe the binary oppositions flowing from us/them (Goody 1977; Lévi-Strauss 1966). Goody has noted that "the trouble with the categories is that they are rooted in a we/they division which is both binary and ethnocentric, each of these features being limiting in their own way." He goes on to suggest that "we speak in terms of primitive and advanced, almost as if human minds themselves differed in their structure like machines of an earlier and later design" (1977, 1).

Understanding different societies and cultures in terms of contrasts and binary oppositions is deeply embedded in European thought, both historically and institutionally. There persists in many discourses about indigenous involvement in and approaches to land, resource, and environmental management a perceived divide between "folk" systems of ecological knowledge, considered intuitive and informal, and scientific approaches, defined as rational, rigorous, and technically accurate. An example of how this kind of opposition has influenced interpretation and analysis is the use of fire for land management in Australia's Northern Territory. Aboriginal people had traditionally used fire as a management tool for maintaining or increasing natural resources. Fire is also used by cattle tenders for pastoral purposes, and by non-Aboriginal national park rangers in park management. Although Aborigines have in recent years become more involved in park management and ranger activities, perceived differences still exist in the worldviews of Aborigines, cattle tenders, and park rangers regarding burning practices (Lewis 1989).

Beyond Categories

Some of the literature on humans' knowing and interacting with landscapes and environments has emphasized or reinforced a divide between indigenous knowledge and Western science founded on the oppositional categories of indigenous/Western or indigenous/nonindigenous. However, the category of indigenous knowledge is formed from a complex intertwining of knowledge traditions and practices through the engagement of indigenous and nonindigenous peoples. Far from being considered a unitary, homogeneous entity founded in some perceived idea of indigeneity, indigenous knowledge must instead be understood as contingent, historically situated, and particular to the specifics of locality, group dynamics, place, and time. The term *indigenous knowledge* needs to be interrogated in order to shift from positing it as a reified, essentialized construct suspended in space and devoid of context, toward a more nuanced view. Simultaneously, the presumed sharp distinction between indigenous knowledge and other knowledge systems also needs to be reconsidered.

What is usually termed *indigenous knowledge* comprises complex interactions and relationships among peoples (indigenous and nonindigenous), situations, experiences, observations, and practices. In what way might we define a point at which "traditional" knowledge differs from, say, "new," "adapted," or "modernized" knowledge? There may be a continuum or spectrum of systems of knowledge across time, space, and locality, thus rendering difficult or irrelevant any attempts to create artificial distinctions or dichotomies between "indigenous" knowledge, "traditional" knowledge, and "science" (Agrawal 1995).

Ellen and Harris (2000, 2) are among those who have critiqued the sharp distinction between "indigenous" and "nonindigenous" knowledge systems claiming that such a distinction "has many highly specific regional and historical connotations which are not always appropriate to other ethnographic contexts." In this view, creating these distinctions makes comparative work difficult.

The Same and Yet Different

Indigenous and scientific systems of knowledge and practice share some common characteristics yet also reveal some important differences. One study illustrates some contrasts between the knowledge systems, or epistemologies, of Aborigines and pastoralists in the context of land management in the Kowanyama River catchment in Far North Queensland. Here, Strang (1997)

has noted fundamentally different discourses on land and environment that appear to reflect contrasting worldviews. Discussing Aborigines' perceptions of and approaches to land management, she comments that "the most important point about Aboriginal land use is that economic interactions with country are never wholly divorced from social and spiritual interactions." She goes on to argue that "land provides a central medium through which all aspects of life are mediated, and economic considerations are merely part of an intimate, immediate, fundamentally holistic relationship" (p. 84).

Strang describes some stark differences between pastoralists' worldviews and those of Aboriginal peoples in this region:

> Aboriginal cosmology is typically presented as the foundation for a primarily mystical, spiritual interaction with the physical world, while in the European or white Australian cosmos, scientific rationalism and crass materialism are largely believed to have marginalized spiritual life.
>
> The Aboriginal groups and the pastoralists experience quite different kinds of physical and emotional interaction with the environment. The traditional Aboriginal economy demands intimate and highly detailed knowledge of the local ecology and geography, with an intense focus of attention on the indigenous flora and fauna. Being integrated with the spiritual and emotional aspects of Aboriginal life, it is part of a deep engagement with a particular landscape, encouraging a continual investment of value in the land. The interaction based on traditional activities—walking, fishing, collecting resources and so on—is a very immediate, tactile engagement, lending itself to qualitative and affective responses to the land. (Strang 1997, 237)

Highlighting the different ways in which pastoralists engage with the land and environment, Strang (1977, 280) observes that "the pastoralists are focused on the foreign elements they have imposed on the landscape: the Western technology, the infrastructure and the stock. Their attention is firmly engaged by, and therefore invested in, their economic activities. On a daily basis, their adversarial efforts to control the cattle and the land are largely mediated by technology, separating them from a more gentle, intimate interaction with the landscape."

Whereas Strang's study emphasizes difference and incommensurability, others stress integration and complementarity between knowledge systems. An example of this latter group is a comparative study of landscape classification

and ecological knowledge of Anangu Aboriginal people in Central Australia, and scientific ecological approaches to land management (Baker and Mutitjulu Community 1992; Reid et al. 1992). This study shows that two quite distinct systems of taxonomy and classification of the natural world can be worked together toward the common goal of sustainable land and environmental management. It illustrates the ways in which indigenous and scientific systems of knowledge can find common ground and can be regarded as complementary or parallel systems. This complementarity can be explored further by examining what characteristics are shared by indigenous and scientific—indeed, by all—systems of knowledge. Slikkerveer (1999, 169) points out that both indigenous and what he terms "global" knowledge systems "are alternative pathways in the human/scientific quest to come to terms with the universe, and are the result of the same process of creating order out of disorder."

At the heart of both indigenous/local and scientific/global knowledge systems is the practice of making observations about local phenomena and interpreting patterns and trends. All knowledge systems, in their applications and techniques, consist of classifying the world and creating typologies, rules, and methods for understanding. They are based on experimentation and innovation. The practices, the techniques, and the applications are to be seen as somewhat distinct to the knowledge itself. All knowledge, in this sense, is concerned with the task of making sense of the world around us and of adapting to changes in the world or adjusting the world to achieve a balance between societies and their environments. The common elements underpinning all knowledge systems have been explored in some detail by Turnbull, who argues that "there is not just one universal form of knowledge (Western science), but a variety of knowledges" (2000, 1). Turnbull demolishes the notion of a hegemonic, authoritative Western science, proposing instead that the production of all kinds of knowledge is a process of assembling a vast array of heterogeneous components (2000, 4). He suggests that "all knowledge traditions, including Western technoscience, can be compared as forms of local knowledge so that their differential power effects can be explained without privileging any of them epistemologically" (2000, 6). Thus it is—in Turnbull's scheme—the particularized, localized social and spatial settings that we must look to if we are to engage in a cross-cultural exploration of differences between and among different knowledge traditions.

Agrawal (1999, 177) supports the view that different knowledge traditions are best understood by examining their contexts. He argues that relations of

power are the critical factors to consider in different knowledge systems: "Most scholars have now come to accept that there are no simple or universal criteria that can be deployed to separate indigenous knowledge from western or scientific knowledge. Attempts to draw a line between scientific and indigenous knowledge on the basis of method, epistemology, context-dependence, or content, are intellectually barren and have produced little that is persuasive."

In considering the contextualized nature of knowledge systems, Agrawal argues that it is important to consider the social and political contexts of knowledge, and the relationships between power and practice, if the study of indigenous knowledge systems is to serve the interests of indigenous peoples themselves. Since these peoples are usually poor and marginalized, we must consider the problem in terms of how the "institutions and practices sustained by different forms of knowledge" contribute to their plight (Agrawal 1999, 178). The differences, therefore, between indigenous and scientific knowledge systems are to be found not as intrinsic properties of the systems themselves but, rather, in terms of how the systems are formed, practiced, and applied. It is in the social and political relations between and among knowledge holders and transmitters, in the distribution of power and authority, and—crucially—in the contexts in which these knowledge systems are formed, maintained, and presented that we might discern some comparative cross-cultural and cross-disciplinary distinctions as well as seek commonality.

Considering both the problem of comparative engagement between and among different knowledge systems and the need to find common ground, should the distinctive aspects of indigenous knowledge systems also be emphasized? If we are to highlight the distinctiveness of indigenous knowledge, one suggestion could be to highlight its "traditional" nature. Although, as this chapter discusses, using the term *tradition* in reference to indigenous knowledge is highly problematic, the Canadian-based indigenous organization Four Directions Council (cited in Posey 1999a, 4) makes a useful point about this notion of tradition: "What is 'traditional' about traditional knowledge is not its antiquity, but the way it is acquired and used. In other words, the social process of learning and sharing knowledge, which is unique to each indigenous culture, lies at the very heart of its 'traditionality.'"

Indigenous writer Laurie Anne Whitt (1999, 69) emphasizes the distinctly indigenous nature of indigenous knowledge by referring to its "intimate" relationship to land and to the natural world. Barsh (1999, 73), too, has proposed

the features he believes distinguish indigenous systems of knowledge. While regarding the "traditional ecological knowledge" of indigenous and tribal peoples as "scientific in that it is empirical, experimental and systematic," he suggests some important differences. He states that indigenous knowledge differs in two respects from Western science:

> First, knowledge is highly localized. Its focus is the complex web of relationships between humans, animals, plants, natural forces, spirits and landforms within a particular locality or territory. . . . Second, local knowledge has important social and legal dimensions. Every ecosystem is conceptualized as a web of social relationships between a specific group of people (family, clan or tribe) and the other species with which they share a particular place.

In sum, the most distinctive feature of indigenous knowledge that sets it apart from scientific and other systems of knowledge is its holism, the way it functions as a complex set of interrelationships among the physical world, the world of humans, the natural world, and the unseen world of ancestors and cosmology.

Beware the Noble Savage

A growing recognition of the value of indigenous knowledge (Brush and Stabinsky 1996) provides a useful and much needed counterpoint to earlier discourses that denigrated such knowledge systems. However, it also brings with it a risk of constructing indigenous peoples as environmentalists par excellence. These noble-savage ecological warriors become, in some discourses, the saviors of the planet, standing as powerful symbols for those who oppose globalization and unfettered development (Sackett 1991). Ellen and Harris (2000, 1) note that "most of us will also accept that the claims made for the environmental wisdom of native peoples have sometimes been misjudged and naïve, replacing denial with effusive blanket endorsement and presenting an 'ecological Eden' to counter some European or other exemplary 'world we have lost.'" To avoid proliferating this kind of unexamined, essentialized view of indigenous knowledge, we must strive to develop plurality wherein a space is created for juxtaposing different systems of knowledge and actions in structures of complementarity rather than of competition and adversity—one that might also lead to a greater understanding of the complexity of indigenous knowledge systems and practices.

More informed, systematic understandings of indigenous knowledge, taxonomies, categories, and concepts may be gained through such rigorous, applied disciplines as anthropology, geography, and history. An example of such an endeavor is geographer Richard Baker's (1999) study of the Yanyuwa Aboriginal people around Borroloola in Australia's Northern Territory. Baker writes: "It is important to try and see Yanyuwa country through Yanyuwa eyes." He explains that "what can seem to European imagination to be an unproductive, strange and at times frightening landscape, is the known and bountiful home of the Yanyuwa" (1999, 45). Baker's study shows these Aboriginal peoples' environmental knowledge to be dynamic and responsive, changing and adapting over thousands of years through constant observation, experimentation, and transmission across the generations. Characterizing this type of innovative knowledge also helps refute the notion that what is often called "traditional" knowledge is fixed and immutable (Baker 1999, 45–50).

A better cross-cultural understanding of systems of thought and practice can also powerfully challenge the authority and hegemony of the dominant modes of thought, as Overing argues. She states (1985, 17): "An excellent antidote to the power of our Western hierarchical oppositions and the theory of knowledge upon which they ride is an acquaintance with other theories of knowledge and ontologies." Clearly, a need exists for greater understanding of other systems of knowledge and translation across categories and boundaries. However, this understanding should be approached with some degree of caution. Not all indigenous knowledge can or should be revealed to those outside the culture, or even to certain persons within the culture. It may be, in this sense, conceivable to appreciate the complexity and richness of a particular system of knowledge across cultural boundaries without having access to the details of that knowledge tradition. There is much that must remain confidential, and respect for the internal rules governing the management of knowledge in indigenous communities is an essential part of cross-cultural understanding.

Defining Indigenous Knowledge

Indigenous writer Winona LaDuke (1994, 127) has written that "traditional ecological knowledge is the culturally and spiritually based way in which indigenous peoples relate to their ecosystems." She states that "this knowledge is founded on spiritual-cultural instructions from 'time immemorial' and on

generations of careful observation within an ecosystem of continuous residence." Many writers have grappled with the terminology and definitions of "indigenous traditional knowledge."

Acknowledging the difficulties of defining indigenous knowledge, Howden (2001, 60) suggests the following working definition: "[Indigenous knowledge] is a living system of information management which has its roots in ancient traditions. It relates to culture and artistic expression and to physical survival and environmental management. It controls individual behavior, as it does community conduct. In short, it is a concept that essentially defies description in Western terms, but which lies at the heart of Indigenous society."

In this view, the problem in understanding indigenous knowledge within Western discourses lies in the kind of categorization that these discourses use to separate such categories as "law," "culture," "heritage," and "religion" (as discussed above in terms of the Western preoccupation with hierarchies of knowledge). Howden (2001, 62) writes: "Indigenous knowledge systems are better understood as practical, personal and contextual units which cannot be detached from an individual, their community, or the environment (both physical and spiritual)."

Working definitions of indigenous or "traditional" knowledge have also been proposed by others, including Davis (1999, 1), who bases such a definition on certain identifiable characteristics said to be common to all types of indigenous knowledge. These include the following:

- The holding of communal rights and interests in knowledge
- A close interdependence among knowledge, land, and spirituality
- The passing down of knowledge through generations
- Oral exchange of knowledge, innovation, and practices according to customary rules and principles
- The existence of rules regarding secrecy and sacredness that govern the management of knowledge.

Although some analytical use lies in formulating a working definition of indigenous knowledge, the risk also exists that such defining and classifying returns to the very problem argued against in this chapter: the reifying and essentializing of indigenous categories and concepts. Formulaic definitions, once established in the literature, become vulnerable to appropriation by dominant discourses, thus perpetuating the very problem we address here. Another concern with definitions

revolves around who is doing the defining and for what purposes. Finally, the formation of definitions places at risk the possibility of recognizing the diversity and plurality of indigenous knowledge. As Dei et al. (2000, 4) have explained this plurality: "All knowledges exist in relation to specific times and places. Consequently, indigenous knowledges speak to questions about location, politics, identity, and culture, and about the history of peoples and their lands." Is it possible then to represent such fluidity within a single definition? And even more important, what purpose would such definitions have and for whom?

Valuing Indigenous Knowledge

Indigenous knowledge has often been undervalued, or perceived to be of less worth than other forms of knowledge. This undervaluing has been discussed in the context of development. As Chambers and Richards (1995, xiii) point out: "In the past, indigenous knowledge was widely regarded among development professionals as an academic, if not dilettantish, concern limited largely to social anthropologists. Much of it was seen as superstition. In the dominant model of development, useful knowledge was only generated in central places—in universities, on research stations, in laboratories, then to be transferred to ignorant peasants and other poor people."

However, an increasing body of literature is recognizing the intrinsic value of indigenous knowledge systems and of the benefits of harnessing these systems toward sustainable development goals (Agrawal 1995).

Plurality, Complexity, and Understanding

Recognizing the value of indigenous systems of knowledge is a critical step toward greater appreciation of the plurality between and among different traditions. An appreciation of plurality rests on developing a sound comparative understanding across and within different cultural systems. Shiva (2000, viii) advocates a plural approach to knowledge systems, arguing:

> It is now generally recognized that the chemical route to strengthening agriculture and health care has failed, and must be abandoned. This provides us with an opportunity to re-evaluate indigenous knowledge systems and to move away from the false hierarchy of knowledge

> systems back toward a plurality. The pluralistic approach to knowledge systems requires us to respect different such systems—to embrace their own logic and their own epistemological foundations.

She elaborates (2000, viii–ix):

> It also requires us to accept that *one* system (i.e., the Western system) need not and must not serve as the scientific benchmark for all systems, and that diverse systems need not be reduced to the language and logic of Western knowledge systems.

If this plurality and complexity are better understood and respected, bridging the gap between different knowledge systems is more likely to occur.

Crossing the Divide

The divide—imagined, perceived, or invented—between indigenous and non-indigenous knowledge traditions can be crossed by considering different ways of thinking, talking, and writing about environmentally based practices. One such approach is "caring for country," a phrase that has been used to describe specific nurturing strategies and practices that "promote the well-being of particular types of ecosystems" (Rose 1996, 63). For Aboriginal people, caring for country might be considered a way of attaining a balance among environmental consciousness, pragmatic approaches to sustaining livelihoods, and spiritual or cosmological perspectives on food, living things, and being in the world.

However, the expression can also suggest a more thoughtful or considered way by which humans generally and collectively might approach the maintenance of the land and environment. In this way, a notion of "care" can be deployed as a metaphor for a regime of intercultural environmental ethics, practices, and epistemologies that are not derived from or dependent on specific historically or culturally based techniques and technologies. By promoting an "Aboriginal land ethic" (Rose 1988) and, more broadly, an "ecological ethic," it is possible to transcend divisive, conflict-based approaches to the environment and develop "attitudes of care, concern, respect, responsibility and perhaps awe for the value of all living things which compose the larger web of life" (Tully 2001, 150). The working together of multiple epistemologies—indigenous, "Western," scientific, and others—is central to such an approach.

The divide between so-called Western rational, instrumental, scientific

discourses and actions and indigenous epistemologies has been based on a perceived dichotomy between the scientific approach—with its emphasis on pragmatic, rational, and logical actions founded in measurement, accuracy, and technology—and indigenous approaches, thought to be more integrative and to juxtapose the physical and the pragmatic with the spiritual and the religious. However, if we focus not on imposed presuppositions about an indigenous knowledge–Western science divide but, rather, on collective approaches to caring for, nurturing, and maintaining land and ecosystems, then we may be able to integrate or harmonize different traditions and epistemologies. In Rose's view, good ecological management is achieved by working together different ways of "caring for" or nurturing country, such as meshing the "conventional" fire management regimes employed by rangers with the systems used by Aboriginal people. In this way, she proposes, "the congruence of two knowledge systems . . . offers models for how ecological knowledge more generally can be managed on the continent, and for how Indigenous and settler Australians can share in the work of life" (1996, 63; see also Rose 2004). An appreciation and incorporation of culturally different concepts and categories when forming laws and policies can provide the grounds for implementing the policies more ethically.

Translating Concepts: Tradition and Custom

Translating concepts and categories between different cultural systems requires reexamining and rethinking some key concepts of law, policy, and administration. One such concept is tradition, which recurs often in discourses on native title and heritage in Australia. As anthropologist Peter Sutton (2003, xviii) observes: "The focus of native title in Australia is on the translation of customary and traditional rights in country into legal "rights and interests.'" The concept of tradition as articulated in the legal arguments is rooted in Enlightenment ideas of progress and finds expression in a traditional/modern dichotomy. This historically situated concept of tradition within discourses of modernity further complicates the position of indigenous peoples as exemplars of tradition. In this sense, "tradition" is often regarded as some imagined construct that posits an "authentic" or "truthful" set of beliefs, values, customs, and practices, rooted in antiquity and reinforced by ancient and enduring mythic charters. This "tradition" predates modernity or rests in opposition to it.

In the history of anthropological and ethnographic work in Australia and

elsewhere, as well as in the forming and implementing of law and policy for indigenous peoples, there has been a tendency to search for or construct some perceived intangible, residual, and elusive "traditional culture" that is thought to underlie contemporary indigenous lives (Povinelli 2001). However, in the present argument concerning the dissolving of boundaries between "indigenous" and "Western" knowledges, it is more productive to posit a greater complexity in the relationships between "tradition" and "modernity." The tradition/modernity boundary can be blurred by adopting a view of "traditional culture" not as some immutable, fixed set of customs and practices but, rather, as a more malleable entity. Swain (1993, 178) provides a useful guide to this kind of approach: "The 'traditional Aborigine' is an academic fiction. We are dealing with an inherently dynamic ontological fabric, constantly being made relevant to an ever-changing world."

Traditions, argues Swain, are "entities which are forever becoming" (1993, 279). By taking this more pluralistic, dynamic understanding of tradition and extending it to suggest a multiplicity of traditions sharing a mutually compatible space, the traditional/modern dichotomy begins to fade. Instead, following Muecke (2004), there is a constant movement between ancient and modern wherein, if we equate the ancient with that which is "traditional," the ancient can be said to be always already present within the modern. If the concepts of "tradition" and "traditional culture" are deconstructed in this way, what then of "modernity"? Rather than positing a unitary or homogeneous modernity, which can be "understood as an attitude of questioning the present," Gaonkar (2001, 13–14) suggests it is useful to "think in terms of alternative modernities." Establishing a field containing a multiplicity of traditions and modernities creates a space wherein it becomes possible to reformulate relationships between and among different knowledge traditions.

Dissolving the binary opposition of tradition/modernity exposes the many levels of meanings, values, and contexts within which concepts such as "tradition" may be reexamined. The current use of terms and categories in legal, policy, and administrative discourses and practices has little to do with the historically, socially, and culturally situated actualities of indigenous communities. Such uses are generally divorced from the adaptive, dynamic processes of cultural systems in indigenous societies and reflect more the ideologies and presuppositions of the dominant legal and political machinery. The role of disciplines such as anthropology, grounded in field

observation and close engagement with indigenous communities, is important to consider here, as such disciplines might provide a more nuanced and complex understanding of indigenous cultural systems (see Brush 1993; Davis 2001; Smith 2003).

Conclusion

This chapter has argued that although there may be innate, fundamental, a priori principles underlying all systems of knowledge and epistemology, the application and practices stemming from these systems differ across, between, and within cultures. In other words, common principles or core elements are perceived and sensed differently by different cultures, which then construct their own classifications and taxonomies to describe the environment in ways that accord with their cultural systems. Dominant legal and sociopolitical systems delimit and bound indigenous cultural and epistemological systems in artificially constructed categories and concepts that have more reference to bureaucratization and program management than to specific, localized, and particularized cultural knowledge and epistemological systems.

While national policies and legislation serve the interests of the nation-state by legitimizing its dominance over marginalized and minority peoples through the use of essentializing language, the potential for engagement with indigenous forms of knowledge and practice also occasionally arises. Despite the totalizing tendencies of national discourse regarding indigenous epistemologies, there nonetheless remains the scope for a deeper, more engaged understanding of the complexities, malleability, and adaptability of indigenous knowledge systems within national policy and legislative discourse, as well as for a plural approach to help different traditions and epistemologies work together. This may be achieved by creating a space within national laws and policies for inscribing indigenous forms of cultural practice as well as by using interdisciplinary and multifaceted approaches to legislative and policy development. Such approaches can benefit from applied disciplines, such as anthropology and cultural criticism, that attend to the complexities of indigenous cultural systems. They will also be greatly enhanced by a commitment to engagement with indigenous peoples wherein these peoples can participate in, and contribute meaningfully to, policy and legislative development.

References

Agrawal, A. 1995. Dismantling the divide between indigenous and scientific knowledge. *Development and Change* 26:413–39.

———. 1999. On power and indigenous knowledge. In *Cultural and spiritual values of biodiversity,* ed. and comp. D. A. Posey, 177–80. London: United Nations Environment Programme/Intermediate Technology Publications.

Antweiler, C. 1993. Local knowledge and local knowing: An anthropological analysis of contested "cultural products" in the context of development. *Anthropos* 93:469–94.

Baker, L. M., and Mutitjulu Community. 1992. Comparing two views of the landscape: Aboriginal traditional ecological knowledge and modern scientific knowledge. *Rangeland Journal* 14 (2): 174–89.

Baker, R. 1999. *Land is life: From bush to town, the story of the Yanyuwa people.* St. Leonards, New South Wales: Allen and Unwin.

Barsh, R. L. 1999. Indigenous knowledge and biodiversity. In *Cultural and spiritual values of biodiversity,* ed. and comp. D. A. Posey, 73–76. London: United Nations Environment Programme/Intermediate Technology Publications.

Brush, S. B. 1993. Indigenous knowledge of biological resources and intellectual property rights: The role of anthropology. *American Anthropologist* 95 (3): 653–71.

Brush, S. B., and D. Stabinsky. 1996. *Valuing local knowledge: Indigenous people and intellectual property rights.* Washington, DC: Island Press.

Chalmers, A. F. 1999. *What is this thing called science?* 3rd ed. St. Lucia: Queensland University Press.

Chambers, R., and P. Richards. 1995. Preface. In *The cultural dimension of development: Indigenous knowledge systems,* ed. D. M. Warren, L. Jan Slikkerveer, and D. Brokensha, xiii–xiv. London: Intermediate Technology Publications.

Davis, M. 1999. Indigenous rights in traditional knowledge and biodiversity: Approaches to protection. *Australian Indigenous Law Reporter* 4 (4): 1–32.

———. 2001. Law, anthropology, and the recognition of indigenous cultural systems. In *Law and anthropology: International yearbook for legal anthropology,* vol. 2, ed. R. Kuppe and R. Potz, 298–320. The Hague: Martinus Nijhoff Publishers.

Dei, G. J. Sefa, B. L. Hall, and D. Goldin Rosenberg, eds. 2000. *Indigenous knowledges in global contexts: Multiple readings of our world.* Toronto: University of Toronto Press.

Ellen, R., and H. Harris. 2000. Introduction. In *Indigenous environmental knowledge and its transformations: Critical anthropological perspectives,* ed. R. Ellen, P. Parkes, and A. Bicker, 1–29. Amsterdam: Harwood Academic.

Gaonkar, D. P. 2001. On alternative modernities. In *Alternative modernities,* ed. D. P. Gaonkar, 1–23. Durham, NC: Duke University Press.

Goody, J. 1977. *The domestication of the savage mind.* Cambridge: Cambridge University Press.

Grim, J. A., ed. 2001. *Indigenous traditions and ecology: The interbeing of cosmology and community.* Cambridge, MA: Harvard Press for the Center for the Study of World Religions.

Hobart, M., ed. 1993. *An anthropological critique of development: The growth of ignorance.* London: Routledge.

Howden, K. 2001. Indigenous traditional knowledge and native title. *University of New South Wales Law Journal* 24 (1): 60–84.

LaDuke, W. 1994. Traditional ecological knowledge and environmental futures. *Colorado Journal of International Environmental Law and Policy* 5 (1, Winter): 127–48.

Lévi-Strauss, C. 1966. *The savage mind.* Chicago: University of Chicago Press.

Lewis, H. T. 1989. Ecological and technological knowledge of fire: Aborigines versus park rangers in Northern Australia. *American Anthropologist* 91 (4, December): 940–61.

Muecke, S. 2004. *Ancient and modern: Time, culture and indigenous philosophy.* Sydney: University of New South Wales Press.

Overing, J. 1985. Introduction. In *Reason and morality,* ed. J. Overing, 1–28. London: Tavistock Publications.

Posey, D. A. 1999a. Introduction: Culture and nature—the inextricable link. In *Cultural and spiritual values of biodiversity,* ed. and comp. D. A. Posey, 3–16. London: United Nations Environment Programme/Intermediate Technology Publications.

———, ed. and comp. 1999b. *Cultural and spiritual values of biodiversity.* London: United Nations Environment Programme/Intermediate Technology Publications.

Povinelli, E. A. 2001. Settler modernity and the quest for an indigenous tradition. In *Alternative modernities,* ed. D. P. Gaonkar, 24–57. Durham, NC: Duke University Press.

Reid, J., L. Baker, S. R. Morton, and Mutitjulu Community. 1992. Traditional knowledge + ecological survey = better land management. *Search* 23 (8): 249–51.

Rose, D. B. 1988. Exploring an Aboriginal land ethic. *Meanjin* 3:378–87.

———. 1996. *Nourishing terrains: Australian indigenous views of landscape and wilderness.* Canberra: Australian Heritage Commission.

———. 2004. *Reports from a wild country: Ethics for decolonisation.* Sydney: University of New South Wales Press.

Sackett, L. 1991. Promoting primitivism: Conservationist depictions of Aboriginal Australians. *Australian Journal of Anthropology* 2 (2): 233–47.

Shiva, V. 2000. Foreword: Cultural diversity and the politics of knowledge. In *Indigenous knowledges in global contexts: Multiple readings of our world,* ed. G. Sefa Dei, B. L. Hall, and D. Goldin Rosenberg, vii–x. Toronto: University of Toronto Press.

Simons, M. 2003. *The meeting of the waters: The Hindmarsh Island affair.* Sydney: Hodder.

Slikkerveer, L. J. 1999. Ethnoscience, "TEK" and its application to conservation. In *Cultural and spiritual values of biodiversity,* ed. and comp. D. Posey, 169–259. London: United Nations Environment Programme/Intermediate Technology Publications.

Smith, B. R. 2003. "All been washed away now": Tradition, change and indigenous knowledge in a Queensland Aboriginal land claim. In *Negotiating local knowledge: Power and identity in development,* ed. J. Pottier, A. Bicker, and P. Sillitoe, 121–54. London: Pluto.

Strang, V. 1997. *Uncommon ground: Cultural landscapes and environmental values.* Oxford: Berg.

Sutton, P. 2003. *Native title in Australia: An ethnographic perspective.* Port Melbourne, Victoria: Cambridge University Press.

Swain, T. 1993. *A place for strangers: Towards a history of Australian Aboriginal being.* Cambridge: Cambridge University Press.

Tully, J. 2001. An ecological ethics for the present: Three approaches to the central question. In *Governing for the environment: Global problems, ethics and democracy,* ed. B. Gleeson and N. Low, 147–64. Basingstoke, England: Palgrave.

Turnbull, D. 2000. *Masons, tricksters and cartographers: Comparative studies in the sociology of scientific and indigenous knowledge.* Amsterdam: Harwood Academic.

Whitt, L. A. 1999. Metaphor and power in indigenous and Western knowledge systems. In *Cultural and spiritual values of biodiversity,* ed. and comp. D. A. Posey, 69–72. London: United Nations Environment Programme/Intermediate Technology Publications.