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I been have to get up, talk now. “No.  
No. You not going to forget them  
Dreaming. You can’t forget. They still  
there. They still going. They danger-  
ous, that mob. You say, ‘No.’”*

— Betty Bilawag, conversation with  
the author, 1993

## INTRODUCTION / Critical Common Sense

### JUST BE YOURSELF

In his 1958 essay “Continuity and Change” anthropologist W. E. H. Stanner reflected on whether the indigenous population of Australia should assimilate into mainstream settler society. Stanner’s discussion would probably not surprise those familiar with mid-century public debates on indigenous assimilation in Australia or, for that matter, in the United States, New Zealand, or Canada. But Stanner writes something that we might easily pass over, rushed, as we often are, to get to the point. He states: “Let us leave aside the question that they may not want to [assimilate], and the possibility—I would myself put it far higher than a possibility—that very determined forces of opposition will appear. *Suppose they do not know how to cease to be themselves.*”<sup>1</sup>

Thirty-five years later, long after Australian state indigenous policy had

shifted from assimilation to self-determination and then to reconciliation, Betty Bilawag described to me the feelings of panic she experienced when she attended a meeting to discuss whether mineral exploration should be allowed in Marriamu and Marritjeban country, a small area of land on the northwest coast of the Northern Territory of Australia. When she realized younger Marriamu and Marritjeban family members were about to vote in mass in favor of mining near a particularly sacred Dreaming site, she described her actions to me in this way: “I been panic. I been have to get up. I been have to get up, talk now. ‘No. No. You’re not going to forget them Dreaming. You can’t forget. They still there. They still going. They dangerous, that mob. You say, No.’”

Is it surprising to find younger members of Bilawag’s family seriously considering a mining venture as a means of relieving their structural poverty; or to find her feeling “panic” in opposing their desires? This panic acts as a corporeal index of the various contradictory orders and levels of obligation she and her family face as they move across—and within—now complicatedly intercalated discursive and practical spaces of capital, the Dreaming, and, as we will see, state law in relation to them. Wadeye (Port Keats), where many Marriamu and Marritjeban live, is the sixth-largest town in the Northern Territory, a fact often obscured by its nonwhite population and geographic remoteness, located as it is off the main highway that runs from Darwin south to Alice Springs. Wadeye is also, by far, one of the poorest of these Northern Territory towns, with all the incumbent health and social problems of endemic poverty: high childhood mortality, high substance abuse, suicide and depression, and low life expectancy. Mining ventures in the region might alleviate some of this poverty, but there is a hitch.

If capital ventures like the mining proposal are able to relieve certain conditions of poverty these women and men face, such ventures also can create impediments to some of their other territorial and economic aspirations. Just two years after my conversation with Bilawag, I was working with other Marriamu and Marritjeban, preparing for a sea claim to be lodged under the Native Title Act, 1993. As part of the application process, we had to produce a report and map demonstrating the continuing existence of their traditional laws, customs, beliefs, and practices. These traditional customs give their native title application its legal efficacy under Australian statutory and common law. Most jurists loosely agree with an understanding of traditional customs as outlined by one of the first land tribunal justices in the Northern Territory. Justice Olney, who had also served as a land commissioner under the Aboriginal Land Rights (Northern Territory) Act, 1976, described tradi-

tional customs as a set of laws, beliefs, and practices that are “integral to a distinctive culture” rather than a mere “description of how people live,” how their ancestors once lived, or how a portrait of their lives might be opportunistic to the law.<sup>2</sup> But although state courts and publics demand evidence of the continuity of traditional beliefs, practices, and dispositions as the condition of cultural recognition and, through this, land title, some features and practices of “customary law” are prohibited by common and statutory law and by a public sense of moral decency—what constitutes the socially and culturally repugnant and the limits of recognition.

It is not necessary to conceptualize a coherent subject nor completely separate discursive orders in order to conceptualize the vital sociological consequences of moments in which indigenous and nonindigenous subjects (or any subjects for that matter) experience contrasting obligations to reasoned argument and moral sensibility—and, most important, are called upon to performatively enact and overcome this impasse as the condition of recognition. Moreover, as Bilawag’s reminiscences suggest, the subjective embodiment of reason and moral sensibility varies, often significantly, across age and social groups within a community—her younger family members were poised to vote “yes” to the mining venture after all. Is it surprising, then, that the embodiment of “culture” reflects the variations, slippages, dispersions, and ambivalences of discursive and moral formations across the variegated terrain of indigenous and nonindigenous social life? Two types of social risks arise in these moments. First, discursive norms and legal codes are placed at risk as subjects like Bilawag and her family creatively engage the impasses they face, generating new forms of social life. Second, the subject herself—Betty Bilawag—is placed at risk. Numerous people throughout the northwest coastal region have described to me the personal consequences of not being able to reconcile these various orders. They identify people as *piya wedjirr* (literally, “head-rotten”) or “silly,” made so by their inability to reconcile the competing obligations and desires that make up local lives. These people could neither be nor cease to be themselves in social conditions that maximize the impasse of discursive and moral orders. Whatever else might be said about Betty Bilawag’s “panic,” this much seems true—it points to and expresses the contradictory mandates she inhabits and embodies. But she is not the only one inhabiting the impasses of late liberalism. In other words, the contradictions and impasses of late liberalism are not found only in and among minorities and subalterns. They are a total social fact.

Nonindigenous Australians must now grapple with what constitutes a fe-

licitous version of “traditional custom” in the context of these legal, public, and moral binds. Nonindigenous jurists and other national citizens face the question of whether commercial cultures are incompatible with the image of distinctive traditional cultures and whether they are incompatible with other capital ventures hinged to traditional cultural forms, such as cultural tourism, ecotourism, and New Age tourism. (Wadeye bark and canvas paintings are auctioned at Sotheby’s in Melbourne for thousands of dollars and can now be perused on the Web.<sup>3</sup>) In these uneven cultural fields how do jurists and other nonindigenous citizens discern a real indigenous subject from a “more or less” diluted subject? Is it sufficient for indigenous persons to assert that they know customary beliefs or must they demonstrate some internal dispositional allegiance to that belief? How does one calibrate an internal disposition? Does Betty Bilawag’s panic, her seeming concern first and foremost for the lifetime of the Dreamtime, indicate an internal disposition truer to a traditional outlook than that of her younger family members, no matter what they might say? Does her panic place her closer to traditional nonsettler values? The possibility of entertaining this thought has real material and social consequences in the law of recognition.

But the problem of cultural difference is not merely whether commercial cultures are incompatible within legal and other commercial imaginaries or whether an assertion can be distinguished from a dispositional allegiance. It is also a question of whether they are incompatible with personal and public senses of the moral and the criminal. From this perspective new questions surface. On what basis does a practice or belief switch from being an instance of cultural difference to being repugnant culture? How does one calibrate differences across cultural distinctions in order to decide what counts as evidence of continuing culture as opposed to what counts as evidence of criminal conduct?

No less than Bilawag, nonindigenous liberal Australians are confronted with a set of historically variable and seemingly irresolvable obligations. Settler Australians face a central irresolvable tension in the simultaneous obligation to public reason and moral sense; in a multicultural context, to value diversity and to repudiate immorality, to understand the practices of another person or group and to accept them as viable neighbors. In other words, the generative power of liberal forms of recognition derives not merely from the performative difficulties of recognition but also from something that sociologists and philosophers have called moral sensibility, of the social fact of the feeling of *being obliged*, of finding oneself under an obligation to some thing —

or to a complex of things. A person might find herself or himself obliged to a feeling, a practice, a person, or an idea. In this book, I am especially interested in moments in which persons find themselves simultaneously obliged to their moral sense and to reason, especially instances in which the two are not reconciled, and in the new social imaginaries and formations that unfold from these moments. Betty Bilawag, for instance, found herself obliged to the Dreaming in spite of the socioeconomic sense of the mineral exploration or any reason that might arise from public debate. In chapter 3 I discuss instances in which administrators in northern Australia in the 1930s and 40s found themselves opposing federal policy on “tribal customs,” not because they did not understand its economic or political rational but because they thought it violated their *sense* of decency. They knew they ought to oppose federal policy, although if asked why they might not say much more than “because it is the right thing to do.” In moments like this, persons face most starkly the fact that following one law means violating another. They discover that their reasoning and their affect are out of joint: I should be tolerant but you make me sick; I understand your reasoning but I am deeply offended by your presence.

The experience of what analytic philosophers describe as deep epistemological and deontological differences may well create irresolvable cleavages, not simply between two social groups but within one of them which, prior to encountering radical alterity, was tacitly accepted and experienced as a collectivity. For instance, the intimate “We” of the national “We the People” can come precariously close to being refashioned as a collection of strangers who turn not toward but away from each other in the neighborhood of radical alterity. “We” identifications are refashioned as third-person attributions: they, them; their ways, moralities, and cultures; their liberal or conservative prejudices. National subjects find that no matter the heroic rhetoric of enlightenment understanding, “their ways” cannot cease to make “us” sick. And this sickness scatters the self (I, us) across contrasting obligations to public reason and moral sensibility. It is this cauldron of competing social impulses that interests me, because of the way it generates new ethics and metaethics of national and international social life.

### **LIBERAL DIASPORAS**

In this volume I critically examine Australian liberal multiculturalism as an ideology and practice of governance, a form of everyday affective associa-

tion and identification, and a specific discursive incitement across the variegated contexts of national and transnational life. I do not comment on Australian multiculturalism in a general way, but rather only in the specific way it emerges in the neighborhood of indigenous subjects and societies.<sup>4</sup> And I am interested in a very particular legacy and moment of “liberalism” within what I call the liberal diaspora. By liberal diaspora I mean to gesture at the colonial and postcolonial subjective, institutional, and discursive identifications, dispersions, and elaborations of the enlightenment idea that society should be organized on the basis of rational mutual understanding.<sup>5</sup>

To understand how liberal discourses and identifications are elaborated in colonial and postcolonial worlds, I think it is important to differentiate postcolonial struggles from multicultural ones.<sup>6</sup> Frantz Fanon and members of the school of Subaltern Studies have suggested how colonial domination worked by inspiring in colonized subjects a desire to identify with their colonizers.<sup>7</sup> The Australian example suggests that multicultural domination seems to work, in contrast, by inspiring subaltern and minority subjects to identify with the impossible object of an authentic self-identity; in the case of indigenous Australians, a domesticated nonconflictual “traditional” form of sociality and (inter)subjectivity. As the nation stretches out its hands to ancient Aboriginal laws (as long as they are not “repugnant”), indigenous subjects are called on to perform an authentic difference in exchange for the good feelings of the nation and the reparative legislation of the state. But this call does not simply produce good theater, rather it inspires impossible desires: *to be* this impossible object and to transport its ancient prenatal meanings and practices to the present in *whatever* language and moral framework prevails *at the time of enunciation*.

Although on the one hand I am interested in liberal forms of multiculturalism as a form of domination, I am also interested in these forms both as a response to previous discursive impasses of national life and as a place within which minority and subaltern subjects creatively elaborate new social imaginaries. In this way this book is a partial story, as stories and analyses always are. In it I try to understand how a discursive, affective, and institutional calculus of citizenship and nationalism—the liberal aspiration for a rational nonviolent form of association based on competing knowledges and moral values—is intercalated in legal, public, and state assessments of indigenous claims for material compensation for colonial harms. I am especially interested in these issues as they occur in land and native title claims and in public assessments of state-based indigenous welfare programs and benefits.

At the book's core, then, I attempt to analyze critically a liberal aspiration for a critical rational foundation to national and transnational cultural hermeneutics. I try to understand what this aspiration is — its immanence in real-time “multicultural” social life — and how it acts as a social ethics and social technology for distributing the rights and goods, harms and failures, of liberal capital democracies, and for making sense of who and what ought to be held responsible for the successes and failures of these personal and national dreams. As I do so, I try to understand, on the one hand, how the real hopes and optimisms invested in a particular form of national association — liberal multiculturalism — divert social energy from other political and social forms and imaginaries; how they make certain violences appear accidental to a social system rather than generated by it; and, most important, how they attribute and distribute failures arising from a social system to conflicts between social systems. And I try to understand, on the other hand, how indigenous subjects creatively engage the specific logic of liberal multiculturalism.

Long ago I was humbled by the task of capturing analytically or sociologically the stakes on indigenous life of something so seemingly vague and ephemeral as an aspiration. What model of the social could concretely capture and demonstrate the social effect of this aspiration on Bilawag and her family and on indigenous politics and public assessments and national economies and social poverty? What could demonstrate the response of her and her ancestors to these changing aspirations? Moreover, I worried that something very unusual, hardly representative, might be happening along the northwest coast stretching south from Darwin, in the Northern Territory, to Wadeye, near the Western Australian border, where I had been working year in and year out since 1984. Several important land claims had been given hearings throughout the 1970s, 80s, and 90s. The unusual nature of one, the Kenbi Land Claim (which covered lands on the peninsula just across the Darwin Harbor), was hardly reassuring. To date it has been heard twice and has generated four often-competing indigenous claimant groups, each with their own legal and anthropological counsel. The case concerns the limits of historical transformation in the context of legally mandated customary continuity. Here is an example of how indigenous people critically and creatively engaged the often brutal history of a liberal diaspora, elaborating local imaginaries and trans-local economic, political, and social facts, only to meet the law of recognition that places a limit on exactly this type of creativity.

Perhaps only this context would have motivated local indigenous people to speculate that the failure of the claim was the result of their failure to have

and hold onto their “traditional culture” after 120 years of often brutal colonization. Maybe only this particular scene would elevate to sociological significance the impossible demand placed on these and other indigenous people: namely, that they desire and identify with their cultural traditions in a way that just so happens, in an uncanny convergence of interests, to fit the national and legal imaginary of multiculturalism; that they at once orient their sensual, emotional, and corporeal identities toward the nation’s and law’s image of traditional cultural forms and national reconciliation and at the same time ghost this *being for* the nation so as not to have their desires for some economic certainty in their lives appear opportunistic.<sup>8</sup>

To understand the social sources of these social conditions I began looking for whatever signposts I encountered along the way. One was found in liberal accounts of obligation. This much seems certain: a range of obligations strike people throughout the course of their lives in a variety of social settings. Statements invoking obligation address different persons and scales of personhood: first person, second person, third person (I, we, you, she, he, it); Everyone or Manyone or Someone. And these obligations encompass a wide range of social values from justice to cleanliness, and rituals from formal to informal. Philosophers and sociologists working in the legacy of the Enlightenment have been occupied by the striking nature of obligation — the force with which an obligation imposes itself on one — and the seeming differences among the feelings of obligation (of being obliged to something or to someone), the justifications provided for abiding by this or that obligation, and the procedures for reaching shared understandings. One set of obligations in particular have exercised western scholars: the seemingly unconditional nature of ethical and moral obligations and its relation to the enlightenment obligation to public reason (critical rational discourse).

One can immediately see why this domain of obligation would be so interesting to philosophers and sociologists confronting the question of social and cultural difference in postcolonial and multicultural contexts and yet be so difficult for them to resolve analytically. Although reason and moral sensibility are often said to coincide in the last instance, moral obligation becomes philosophically and sociologically interesting exactly where it seems to differ from reason — or is strained to the point of extreme tautology. Why . . . Because . . . Why. When people have moral obligations, they seem to have them independent of the way they arrive at critical rational conclusions. People seem to be had by them rather than to have them. In the procedural ideal of critical rational discourse, reasoned public debate occurs prior to a judgment



(judgment is a posteriori to public reason). But moral sensibility works as an a priori type of “knowledge.” People feel like they know what is morally right prior to arguments concerning why; they might subsequently change their minds after a long talk, but they know first. Kant was not the only person to be bothered by this. The deconstructive philosopher John Caputo puts the outrage of obligation this way: “I know that I am under an obligation, that the call is received, that I am laid claim to.” But if you pressed me for an answer why I am obliged “I will develop a serious cough and ask to be excused.”<sup>9</sup>

All this gets a little complicated, especially when liberal obligations to moral sensibility and critical rational discourse are examined as discursively constituted social facts. We do well to remember that “rational critical discourse” and “moral sensibility” are discursive characterizations not presocial facts. On the one hand, rational critical discourse refers to and describes a procedure of interaction (that is, how one should do this thing called rational critical discourse in the process of stating what it is), and is itself a metadiscursive characterization of a social interaction—namely, what type of talk (rational, self-reflective) counts as an instance of public reason. People may well disagree whether or not an exchange should be characterized as critical rational, public, reasoned, or reasonable. In any case, this form of talk and the characterization and valuation of this form of talk arose historically. On the other hand, moral sensibility refers to and characterizes a form of knowing, often described as moral intuition or embodied insight. Other societies have, however, characterized this form of social insight in other ways, perhaps as evidence of the divine working through the human, or a moment of revelation. Given this minor historiography, note that although both moral reason and public reason are metadiscursive characterizations, each also refers to a different aspect of social life. Rational critical discourse refers to a type of talk, so it is a form of language used to refer to an instance of language. But moral feeling, or moral sensibility, refers to a social phenomenon outside or other than discourse—even though, technically, it may be a form of inference. And insofar as it refers to something other than itself, what moral sensibility “is” is always in excess of what enunciates it and what is enunciated.

There is nothing intrinsically anthropologically interesting or socially problematic about this difference between moral sensibility (deontology) and critical rational knowledge (epistemology). The difference between moral sensibility/feeling and rational critical discourse could be and is viewed with indifference in many cultural contexts. The difference is interesting only and exactly because of the way it works as a generative impasse in liberal dis-

courses about and institutions of cultural recognition. A core obligation of liberalism is to decide public matters on the basis of autonomous, reasonable, and rational subjects (“private persons”) bracketing the social differences that exist among themselves and presenting to their fellow citizens the most robust, true, sincere, and legitimate argument they can muster. And yet moral obligation proper is otherwise in nature than this obligation to reason. Moral obligation—moral sensibility—is exactly where critical rationality is not.

Seemingly far afield, the American pragmatist Charles Sanders Peirce’s understanding of the inference of “perceptual judgment” gestures at the intractability that obligations present to critical social practice—especially that aspect of critical social theory addressing the liberal aspiration to ground national and transnational cultural hermeneutics in the procedures of critical rational discourse—even as it points to the horizon where public and moral reason converge. In “The Three Normative Sciences,” Peirce presents, as an example of perceptual judgment (also called “extreme abduction”), Legendre’s proof that if a line abuts upon an ordinary point of another line, thereby forming two angles  $\sphericalangle$ , then the sum of the two angles is equal to the sum of two right angles. This can be shown by drawing a perpendicular line at the point of abutment. This perpendicular will always fall within one or the other angles  $\sphericalangle$ . Peirce focuses on the transparent truth of this fact, noting that, although we only ever see a specific case of this argument, “the pupil is suppose to *see* that . . . it will be so in any case.”<sup>10</sup> Even leaving aside the ninety degrees, we see that the perpendicular will always fall within one or the other angle. This is a “truth” whose self-evidence is guaranteed by the visual field. What separates such instances of extreme abduction from ordinary abduction is the fact that, in Peirce’s words, the former feels like “a judgment absolutely forced upon my acceptance and that by a process I am utterly unable to control and consequently am unable to criticize.”<sup>11</sup> Sense certainty: where else would the perpendicular fall if not within one or the other angle in two-dimensional space? How could it be otherwise?

Here we see that moral sensibility is, in fact, the experience of the inference of perceptual judgment. And if this is so, then moral reason is as liable to refiguration in social history as is public reason; indeed, all perceptual judgments are. Even the once self-evident universal application of Euclidean geometry was displaced in non-Euclidean space. In another possible world, parallelism suddenly looked very different. And so we are led to wonder what allowed anyone to imagine this other possible world and thereby disrupt the visual guarantee of this actual world. What introduces irritation and doubt

about an object of knowledge or a practice or a sense of morality, their status, self-evidence, and value as true without reserve? What allows anyone to value such critical irritation — what Peirce called “critical common sense” — in what contexts; and to wonder, in the form of a second-order abstraction, whether this critical gesture is *going* anywhere; whether it is *going* in any sense other than figuration and refiguration, subject to social struggle, but not oriented toward anything.<sup>12</sup> Does some “culture” own the critical spirit? Does one historical people or conversation have a type of world historical courage for critique without reserve? These questions are, at bottom, what critical social theorists of the liberal enlightenment have asked, from Kant to Marx to Gramsci, and Luxemburg to Du Bois to Spivak to Agamben and their conservative counterparts, Huntington, Fukuyama, and Bloom.

For Peirce, there was movement and direction in reason. It headed toward truth, with “truth” understood as a real fact corresponding to a proposition, a final interpretant at the end of a long asymptotic curve of reasoned inquiry stimulated by the irritation of doubt. Even if reason never did reach truth, man still needed the notion of truth — the experience of the inference of extreme abduction — in order to continue to search for better understandings. The notion of a truth incited, guided, and soothed man. Peirce also thought that particular forms of society provided the conditions of possibility for the arrival of particular forms of doubt and irritation — not for critique in general but for specific forms and modalities of critique. And I agree to this extent — social institutions and relations incite or mitigate against thinking particular modes of otherwise. They influence whether and when critical thought takes place. For those places where it cannot take place in liberal and illiberal societies, courage, indeed, is necessary to think and live otherwise in contexts that indicate the risk of being various forms of otherwise. The celebratory rhetoric of liberal multiculturalism rests on the grounds that this social form provides the social conditions (discursive, institutional, [inter]subjective) for diminishing the heroics of critique; that it makes thinking otherwise safe for liberal democracies — indeed, gives democracy its unique social vitality. Some go so far as to claim for liberalism an ownership of a universal form of critique in the proceduralism of liberal public reason.<sup>13</sup>

And yet in liberal multicultural democracies, subjects still experience certain truths as self-evident and undeniable, and certain ways of thinking, let alone acting, as dangerous and unreliable. Moreover, subjects who consider themselves to be liberals often hold onto their moral intuitions even when their historical knowledge tells them that these truths are not likely to hold.

As I elaborate in chapter 4, an invisible asterisk, a proviso, hovers above every enunciation of indigenous customary law: “(provided [they] . . . are not so repugnant).” This proviso interprets specific instances of cultural practices and indexes where public reason no longer applies. For instance, although Australian law might demand “real acknowledgement of traditional law and real observance of traditional customs” as the basis for a successful native title claim, *real* customary being must be free of any sense of a repugnant that would “shatter the skeletal structure” of state law; that is, provoke an affective relation to a cultural or social otherwise, an experience of fundamental alterity. But national jurists and subjects are not exempt from the very problem posed to Aboriginal subjects: the dilemma of capturing real justice in real discourse and narrative time without prompting the appearance of the same interpretant hovering over judgments of native title, criminal law, or public morality. This judgment is just (unless [although] . . . it may appear retrospectively as repugnant or shameful). Australian history is littered with instances in which a moral sensibility of just action was retrospectively seen as a merely prejudicial reaction. In recent years, the Australian public sphere has loudly lamented this mistaken moral sensibility in a number of cases, most recently that of the Stolen Generation (which I discuss below and at more length in chapter 1). The social implication of this double session of institutionally mediated knowing is clear, and it is perhaps nowhere more clear and seriously encountered than in the context of multicultural pronouncements on the limits of tolerance in liberal society.

This may seem a very strange way to get to a simple point about liberal settler forms of multiculturalism. But it raises, in a particularly visceral fashion, important questions for the stance critical theory should take toward certain liberal social institutional phenomena and regulatory ideals, certainly for how the distinction between the true and the inconceivable (which I rely on) opens itself to being read. And it raises important questions for how we approach the ways people actually experience the regulatory ideals of liberal life. How do we, and why would we, critically engage a seemingly irreducible good and truth—the liberal regulatory ideal of decreased harm through increased mutual understanding of social and cultural differences? Of a liberal aspiration for a world where conflict does not exist across epistemic and deontic communities? We could ask whether this is *actually* the aspiration of liberal multiculturalism or whether this is how people actually experience this aspiration—two questions that greatly interest me—but this is to ask something different from whether there is a point to criticizing it. To ask if we should

critique these ideals is to allow for the possibility of conceptualizing the institutional, discursive, and subjective conditions of liberalism outside its own terms. It is to allow for the possibility that liberalism is harmful not only when it fails to live up to its ideals, but when it approaches them.

Let me turn to a book by Michael Walzer (who has thought long and hard about liberal political forms) to clarify what is at stake in asking these questions and in the models we develop to answer them. *On Toleration* (1997) reminds us of a certain set of commonplaces among liberal political theorists: that all liberals acknowledge that “we choose within limits”; that few would ever be so daring as to advance “an unconstrained relativism”; and that not every act should be tolerated.<sup>14</sup> Having said this, Walzer does what theorists of liberal pluralism, multiculturalism, and diasporic nationalism often do, he urges readers to set aside the intractable problems facing national and international life—both within liberalism and across liberal and nonliberal societies—and concentrate instead on the levels and types of disagreement that can be resolved without physical violence. Begin with the doable.

The trouble with this tactic is that in actual social worlds those who consider themselves to be liberal are confronted with instances of intractable social differences that they do not set aside—that they do not feel they can or should set aside. They encounter instances of what they experience as moments of fundamental and uncanny alterity: encounters with differences they consider abhorrent, inhuman, and bestial, or with differences they consider too hauntingly similar to themselves to warrant social entitlements—for example, land claims by indigenous people who dress, act, and sound like the suburban neighbors they are. Moments in which subjects are prompted to calibrate the forms and modes of difference confronting them occur in large and small scales, in political and intimate settings; they startle and are long-expected. Courts dismiss the juridical viability of these moments. Governments and public spokespersons denounce them as the limits of good law and good society in a multicultural framework. More important, these moments are not moments at all, but somebody’s life. They mark the site where indigenous persons struggle to inhabit the tensions and torsions of competing incitements to *be* and to *identify* differentially. And I mean incitements. Difference does not simply exist out there in nonliberal beliefs and practices. Particular people and communities are also called on to perform particular types of liberal and nonliberal differences for a variety of other persons and communities, be they tourist attraction, ceremonial man, or bush-tucker guide.

Rather than setting aside the intractable, I have decided to give attention

to these moments of seemingly irresolvable liberal judgments and indigenous struggles in order to understand their generative social force. In this volume I am particularly interested in a specific nonpassage between discursively and morally grounded ideologies of justice. My discussion is centered on social encounters in which a judgment about what constitutes a viable neighbor is experienced as moral irrespective of its “reasoned” grounds or institutional supports. I seek to understand how this experience is subjectively, textually, and institutionally mediated in the given time of constitutional liberal democracies, and how this ideological and experiential nonpassage — rather than dilemma or contradiction — is deferred rather than resolved into a new national ideological formation — namely, multiculturalism.

I ask: What minimal analytical foundations are necessary for an examination of the social consequences of liberal ethics and anxieties, of the unresolved and irreducible tensions within liberal national settler institutions and ideologies? How do these exact moments — too much and too little difference in indigenous Australia — generate new local and national discursive, affective, and institutional forms and incitements across diverse social fields? How do indigenous persons and communities struggle within and across these discursive, subjective, and institutional fields? At what point does the indigenous become dangerous rather than good to think?<sup>15</sup> Building up from these questions is a second-order series of inquiries; namely, how do these intractable moments form high-order social discourses, social programs, law, and cultural programming?

The critical study of liberal diaspora I propose is not interested in simple critiques of “liberalism,” which often move quickly past the complexity of liberal traditions as they have evolved in the context of political struggles within Western, colonial, and postcolonial contexts. Numerous scholars have shown that as emergent social forms and practices were diverted to liberal forms and practices, liberalism itself was dilated and transformed often in strikingly inconsistent ways. One of the great persuasions of liberalism has been its seeming openness, its voracious encompassment. And this is not merely a false front. Liberals do actually value certain forms of thinking and being otherwise, and it wants to supercede all others in order to be the end of history. The aim of public reason seems to be to achieve this end through a nonviolent convergence of minds and hearts. The trouble is that this is not true without reserve. As I hope to demonstrate, in certain contexts the aim of public reason is not to understand, let alone agree, but rather to sequester some often inexpressible felt-thing from reflexive judgment. Under this procedural prin-

principle, public debate “ought” to (or in the stronger ethical form, “must”) give way to a collective moral sense, and not only that public debate must give way but that collective moral sense should be protected from the procedures of critical reason. What is considered exemplary of collective morality may be open to public debate or private conscience. My point here is simply that the ideal still formally holds. The algebra of this principle would look like this:  $\exists x (\text{Public Reason})x$ .

Let me turn to the representation of procedural reason in an episode of the American television drama *Law and Order* in order to concretize this point. In “God Bless the Child” (22 October 1991), the ailing child of members of a thinly disguised sect of the Church of Christ, Scientist dies because her parents, believing in the healing power of prayer, refuse all medical intervention. The police are faced with the question of whether or not to prosecute the parents for manslaughter. The episode discusses at length whether doubt — a crisis of faith in times of emergency — opens religious belief to legal prosecution. If the parents doubted their faith, but nevertheless withheld medical aid, was the action constitutionally protected in the space of doubt? At the end of the episode, the leader of the church is in the witness stand. In reply to a critical question about church practices posed by the prosecutor, the church leader reminds viewers of the U.S. constitutional separation of church and state so fundamental to liberal democratic proceduralism. The prosecutor has the last word in this exchange, retorting with a set of questions: If child abuse were a religious belief held by some people, should the state stand aside and let the children be abused? If the handling of snakes by children were a religious belief that some people held, should the state stand by? In these statements viewers might hear not-so-veiled references to David Koresh and Appalachian snake handlers.

So why isn’t this part of the minor pedagogy of liberal democratic proceduralism? Liberal theorists might hear, and rightfully point to, the prosecutor’s conformity to the proceduralism of public reason, opening belief to reasoned and rational argument and placing justification in actual and possible worlds of practice. But this surely would misinterpret the communicative event. These questions are not to be answered (the judge has the last word, ruling the prosecutor’s questions “out of bounds”). The questions are performative marks of the line past which the procedures of public reason should not tread, the Pandora’s box opened by not heeding our perceptual judgments in moral domains. These performatives issue intolerance in the form of a question, but a question that teaches audiences how to stage the internal limit of

liberal tolerance as a reasonable openness to a very open and shut case. When in doubt, drop the bar until critical abduction turns to extreme abduction and your opponent breaks her back (see also *Law and Order*'s episodes "Ritual," 17 December 1998, and "Disciple," 24 February 1999).

Broad characterizations of liberalism, humanism, and modernity fail to capture the complexity of this historical terrain of social and political worlds. They miss the jobs done by minor emotions and discourses such as doubt and irritation and failures of faith and exhaustion in liberal discursive formations — and these are jobs they indeed do. They authorize, authenticate, and guarantee Truth in liberal regimes of critical rational reflection. They indicate that reflexive judgment has commenced, allowing subjects to feel engaged in a social process labeled "justice" and to feel that such mass subject-projections like the nation, the public, and the state are equally engaged. These feelings of moral right provide an excess "reason" beyond the procedures of public reason itself that supports and advances whatever justificatory framework is provided. These feelings superanimate the self-evidence of the justification itself by creating the sense of a "beyond itself."

Far from dismissing the optimisms and aspirations captured in the form of Australian multiculturalism, far from viewing the diverse set of social persons discussed in this book as in silent alliance with the leaders of a grand historical conspiracy, far from casting personal and public crises of identity, tolerance, and material restitution as mere performative maskings, I propose that we only approach a true understanding of liberal forms of multiculturalism by inching ever nearer to the good intentions that subjects have, hold, and cherish and to the role these intentions play in solidifying the self-evident good of liberal institutions and procedures. Many Australians truly desire that indigenous subjects be treated considerately, justly, and with respect, publicly, juridically, and personally. They truly desire a form of society in which all people can have exactly what they want . . . if they deserve it. They do not feel good when they feel responsible for social conflict, pain, or trauma. This is, after all, a fantasy of liberal capitalist society too simply put: convulsive competition purged of real conflict, social difference without social consequences. To provide a sensorium of cultural competition and difference without subjecting the liberal subjects to the consuming winds of social conflict — no more or less is asked of the indigenous subject, the subaltern subject, the minority subject.

In sum, in this book I suggest that before we can develop a "critical theory of recognition," or a politics of distribution and capabilities, we need to



understand better the cunning of recognition; its intercalation of the politics of culture with the culture of capital.<sup>16</sup> We need to puzzle over a simple question: What is the nation recognizing, capital commodifying, and the court trying to save from the breach of history when difference is recognized? If Charles Taylor's politics of recognition takes inspiration from Herderian and post-Hegelian notions of recognition, this analysis of the cunning of recognition draws inspiration from Hegel's dark account of reason found in *The Philosophy of History*. In Hegel's hands the cunning of reason was revealed at the same time its brutality was exposed. In this spirit, I ask how late liberal ideology works through the passions of recognition, tries to develop its worth without subjecting itself to the throes of contestation and opposition. I ask how national pageants of shameful repentance and celebrations of a new recognition of subaltern worth remain inflected by the conditional (as long as they are not repugnant; that is, as long as they are not, at heart, not-us and as long as real economic resources are not at stake). I think we should refuse to concede that the answer to the aporias of liberalism is, in the first or last instance, to extend liberalism in ever more radical modes of democracy, but rather we should pause and wonder what it is we are disseminating in actual rather than mere philosophical worlds. Let us look at what various forms of liberalism do rather than decide to be for or against them in their abstraction.

Australia seems an ideal place to examine the generation of a new national metaethics around multiculturalism, both because of the depth of its commitment to this national form and because of the relative rapidity in which it has adopted it. Take Betty Bilawag, for example. Over the course of her lifetime she has witnessed settler Australians shoot her extended family for sport and economic gain, public and state repression of ritual; and national celebrations of Aboriginal culture and regret for past harms.

### **BANANA REPUBLICS**

Much earlier than in the United States, and in response to very different geopolitical conditions, Australian nationalism came to mean something other than descent from the convict, ruling, or immigrant classes who arrived from Britain and western Europe. And more firmly and publicly than the United States and Europe, to varying degrees the various political parties of the Australian state claim to have renounced the ideal of "a unitary culture and tradition" and, instead, now recognizes the value and worth of "cultural diversity within, . . . as the basis of . . . a more differentiated mode of national

cohesion.”<sup>17</sup> Australian state officials represent themselves and the nation as subjects shamed by past imperial, colonial, and racist attitudes that are now understood as having, in their words, constituted the “darkest aspect” of the nation’s history and impaired its social and economic future. Multiculturalism is represented as the externalized political testament to the nation’s aversion to its past misdeeds, and to its recovered good intentions.

In short, rather than just some general acknowledgment of shameful past wrongdoings and some limited tolerance of present cultural differences, Australia has putatively sought a more radical basis of national unity. In state and public discourse, the Australian nation aspires to be “truly multicultural.” Official spokespersons claim that multiculturalism is an assemblage of the diverse and proliferating social identities and communities now composing the nation’s internal population, with no one social position or group’s views serving as an oppressive grounding discourse. Cleansed by a collective moment of shame and reconciliation, the nation will not only be liberated into good feelings and institutions but also acquire the economic and social productivity necessary to political and economic hegemony in the Asia-Pacific region — or, at least, to keep the nation from falling further and further behind its northern neighbors.

It was as part of this history that on 14 May 1986, Paul Keating, then treasurer in the Labour Party government of Prime Minister Hawke, described Australia to Australians as a fledgling “banana republic.”<sup>18</sup> Although an economist, not a Deleuzian, by training, Keating nevertheless acted as if he sought to bend “the outside” inward “through a series of practical exercises” — speech acts, economic policies, and labor practices — in order to reformulate Australian subjectivity along a rationalized spatial economy.<sup>19</sup> He saw this realignment of national identity as a prerequisite to the nation’s economic productivity and thus to its social well-being, in the conditions of advanced global capital. Keating was, however, simply eloquently and passionately engaged in Labour’s more general campaign to make the Australian public literate in economic rationalism: how “culture(s) and identity (or, better, the processes through which they are formed)” are a “resisting ‘environment’ of the economic system that has to be made more economically ‘rational’ and ‘productive.’”<sup>20</sup>

Nearly ten years later, as prime minister, Keating proclaimed on national tv: “I am Asian,” thereby replacing the banana republic image with a new mapping of Australia in the world to shake what he saw as those national fantasies and complacencies that affected economic growth. Keating’s cartographi-

cal imaginary aimed to provoke Australians to consider the profits available to them if they would understand their identities and identifications to be flexible and strategic and dislodge questions of ontology from essentialized corporeal and historical grounds. But in reiterating Australian ethnic identity while locating it in Asia, Keating repeated the very assumptions his metaphor was suppose to shake. The addressee of Keating's comments remained, *like* Keating, a loosely defined Anglo-Celtic forced to think of his or her "whiteness" at a double economic margin — at the margin of Europe and the United States and at the margin of the Asia-Pacific.

Social and political-economic conditions in these margins have undergone significant transformations since the emergence of the East Asian so-called miracle economies in the 1960s and 70s and their sudden collapse and revitalization in the late 1990s. Because of these transformations, Keating had good reason to be passionate about the nation and the future of its citizens. He spoke at a moment when Australians already were experiencing a crisis of identity, if not yet a "crisis of authority," owing to significant global, state, and capital realignments.<sup>21</sup>

For the first sixty-odd years of Australian federation, the nation had "the highest living standards and the most equal distribution of income in all the 'developed' nations," primarily as the result of the Labour Accord (the state's direct control over wages, industrial relations, and tariffs).<sup>22</sup> But this economic stability was also a result of Australia's long-standing trading partnership with England, in which Australia provided the primary materials for British industry and imported from Britain manufactured and consumer goods and received capital investment. Most Anglo-Celtic Australians, indeed, were living the good life, beachside and basking in the glow of a well-functioning state and economy. Citizens could, for a while, imagine themselves living in a "lucky country," if they forgot about the indigenous people interned in disease-stricken detention camps in the far north and west of the nation and the Asian laborers and businesspersons suffering from a racialized nationalism.<sup>23</sup> The everyday conditions of these unlucky others did not often puncture public representations in which Australians felt good about themselves, their future, their national self-understanding as a white nation advancing western humanism in the Asia-Pacific.<sup>24</sup>

The Australian standard of living began to change significantly in the early 1970s when England, after a period of economic instability, integrated more tightly into the EEC, leaving Australia bereft of its major historical trading partner. Battered about by a number of global economic crises, the Australian

state and business expanded long-standing trading patterns with the so-called miracle economies of the Asia-Pacific, most importantly with Japan.<sup>25</sup> But even as Australia changed economic partners, its economic profile remained remarkably stable. Japan was in need of industrial raw materials and Australia remained in need of capital investment and manufactured and durable consumer goods.

Yet, Australian business leaders discovered that the global conditions of capital had changed by the time they refigured their trading partners. The Asia-Pacific was not simply a new site of capital accumulation but an innovator in new forms of social and capital organization. Japanese businesses, in particular, developed novel production techniques as firms “rationalized” their manufacturing operations by establishing multilayered subcontracting systems and by relocating production facilities to geographical areas unaccustomed to Fordist wage and consumption standards.<sup>26</sup> Subcontracting firms and production facilities increasingly transgressed national borders, leading not only to Japanese economic dominance in the region but to the formation of an interdependent, if not an integrated, Asia-Pacific political economy—the creation of dense linkages among the organization of modes and sites of production, consumer patterns, and material extraction and manufacturing. And while Japan’s Southeast Asian trading partners nursed lingering suspicions about the possible emergence of a new Japanese imperialism in the area, a regional bloc nevertheless began to congeal and harden by the middle of the 1970s.

As a result of these changing capital formations, Australia began to face “mounting economic challenges due to falling commodity prices, rising debt burden, and inefficient and uncompetitive industries.”<sup>27</sup> The nation was becoming “Latin Americanized.”<sup>28</sup> In every financial quarter, it seemed, the national economy shrunk relative to the emerging so-called flying geese of the Asia-Pacific. Jobs were harder to find, although the Labour Accord kept the minimum wage high. Whole generations of Anglo-Celtics, “our kids,” were on the dole or on the dole roller coaster. In the midst of this economic downturn, the mass media ran story after story of Asian capitalists buying up choice Australian real estate, along with descriptions of the lifestyles of the new Asian millionaires, and of the “Asian” social and cultural values putatively at the basis of the Asian miracle economies.<sup>29</sup> The mass media rarely discussed the underside of capital transformations, although it did cover the occasional collapsing building and environmental disaster in Malaysia and Indonesia.

What the Australian mainstream media foregrounded were the cultural differences separating Australian and Asian societies, typically Australia's commitment to a notion of universal human rights, rights that appeared to be threatened by these new forms of the economic good. Western humanism's fragility and defensiveness at the double margin of Asia-Pacific and Euro-American hegemony is suggested by the newspaper headlines that greeted my arrival in Sydney on 18 September 1996. In front-page stories, both the *Sydney Morning Herald* and *The Australian* reported that in a speech in Jakarta, Liberal prime minister John Howard defended the Europeaness of Australian nationalism: "We are immensely proud of our distinctive culture, our distinctive history, and our distinctive traditions, and we yield to nobody in asserting their great quality and enduring value."<sup>30</sup> Three years later Howard would oppose the republican movement that sought to divest the state from its formal ties with the British Commonwealth, replacing the Crown with an elected head of state.

The mainstream media weighed these cultural issues against the economic, social, and political profits that might accrue to Australians if they thought of themselves spatially, from a bird's-eye view as a point on the globe, rather than primarily historically, as descended and therefore essentially *being* from another point on the globe. Although Australia may have needed the strong economies of Asia, did the identification with Asia, or as Asians, cross the discursively thin line preserving European culture and its political and social institutions at the nation's core? At what cost would Australians maintain or erase these social and cultural differences and traditions? And, finally, no matter the political-economic sense that his statement might have made, did statements like Keating's "I am Asian" — or, later, an event like the republican movement — constitute a form of race betrayal for those in the nation who still worried whether they would be swamped both by Asian immigration and economic power? Or was it an index of the maturing confidence of Australian nationalism? Rather than a unified stance and a monological voicing of the meaning of multiculturalism, Australian political parties and the public evoke the contestorial field often hidden under this national ideology.

Australia's historical and economic relationship to Asia provided one side of a double margin between which a multicultural national imaginary was to be constructed. On the other side lay indigenous people. As I note in more detail in chapter 3, the 1901 Commonwealth Constitution, which set up the Australian federation government and formally founded the Australian nation, mentions Aboriginal persons in just two places: section 51 (26),

which excluded people of the “Aboriginal race” from the special race power of the Commonwealth government; and section 127, which excluded “aboriginal natives” from being counted in the census. Under the 1901 Constitution, states retained the right to formulate their own policies regarding Aboriginal persons within their territories, including the ability to pass legislation excluding them from the franchise; something most states did.<sup>31</sup> Although considered *de facto* British subjects, most persons classified as “aboriginal natives” were not afforded full citizenship rights in the new Australian nation.<sup>32</sup>

In 1911, a year after the Commonwealth assumed governance of the Northern Territory from South Australia, the Aboriginal Ordinance further eroded the social autonomy of “Aboriginal natives” in the north through the office of Chief Protector of Aborigines. The act granted the Chief Protector authority over Aboriginal employment, movement, marriage, and social intercourse; and it gave the position power as the “legal guardian of every Aboriginal and part-Aboriginal child under the age of eighteen years.”<sup>33</sup> It was under this act that between 1910 and 1970, 10 to 30 percent of children of mixed parentage were taken away from their Aboriginal parents — a group that would later become known as the Stolen Generation.<sup>34</sup> Within a few years of the passage of the Northern Territory Welfare Act, 1953, 80 percent of the indigenous population had been declared wards of the state, which they remained until 1963, the year Martin Luther King Jr. led a civil rights protest march on Washington, D.C.<sup>35</sup> It was not until 1962, in the face of persistent, organized, national and international criticism from indigenous activists such as Bobby Sykes and Charles Perkins, as well as nonindigenous groups, that “aboriginal natives” were allowed to vote in federal, Northern Territory, and South Australian elections (Queensland did not follow until 1965).<sup>36</sup> The rise of Aboriginal activism in the 1960s coincided with a more general global phenomenon in which progressive politics splintered into class-based, colonial, and new social movements. In Australia, indigenous and colonial consciousness was raised and deepened by that state’s involvement in the Vietnam War.

At the same time that markets in the Asia-Pacific were being restructured from the 1970s through the early 1990s, the state began to shift financial and social resources into Aboriginal communities in response to a national and transnational indigenous liberation movement. This movement highlighted the disjunction between the ideal image of the state as a postimperial exemplar of Western humanism in the region and the actual brutality of its *laissez-faire* stance toward its own internal colonial subjects. This would continue to be a problem at the turn of the century. In 1999, after the Howard government



FIGURE 1. “Mr. Howard What Happen with the ‘Aborigines?’” (Photograph by AP/Bullit Marquez, *Sydney Morning Herald*, 21 September 1999, p. 12.)

committed ground troops to East Timor, Australian newspapers ran pictures of Indonesian protest banners that read “Mr. Howard What Happened with the ‘Aborigines?’”<sup>37</sup> Similar reactions were broadcast during the coup in Fiji in 2000 and after John Howard threatened to withdraw from the U.N. committee system because of criticism by the UN Committee on the Elimination of Racial Discrimination on mandatory sentencing laws in Western Australia and the Northern Territory.

By the mid-1980s indigenous culture and politics had gained a public luminosity, political legitimacy, and economic base unparalleled in Australian history. Almost ten years had passed since the first Commonwealth land rights legislation had been enacted with the Aboriginal Land Rights (Northern Territory) Act, 1976, spawning similar, if less effective, copies in most states and giving indigenous communities, activists, and publics access to capital and bureaucratic and public institutional bases. Aboriginal activists-artists, such as members of the band Yothu Yindi, and popular figures such as Sting and the rock band Midnight Oil, popularized globally indigenous land rights struggles.

Emerging alongside this political revaluation of indigenous social and cul-

tural forms was a vibrant tourism and commodity market in Aboriginal heritage.<sup>38</sup> “Good Aboriginal art” (paintings, sculptures, and artifacts) went on tour, so to speak, and was exhibited in international galleries to critical acclaim.<sup>39</sup> “Bad Aboriginal art” was sold in tourist stalls across Australia and beyond.<sup>40</sup> But both high and low cultural forms contributed to a new global traffic in commoditized indigenous culture, contributing significantly to the national GNP. In the process particular indigenous knowledges were generalized into a natural commercial product, and they contributed to a global resignification of the “indigenous” in relation to social struggle. Indigenousness was unhinged and “liberated” from the specificity of actual indigenous struggles, from their differing social agendas and visions of a reformed social world, and from the specific challenges they posed to contemporary nation-based governmentality and capital.

Freed from specific struggles, the signifier “indigenoussness” began to function as an interpretant to be experienced as an aura, naturalizing any struggle or commodity desire to which it was attached. Sydney neighborhood protestors of the Olympic development at Bondi Beach carried banners proclaiming Bondi Beach as a “sacred site.” And, when the head of the Australian Children’s Television Foundation accused U.S. broadcasters of a “sinister new form” of cultural colonialism, she troped a national counterinsurgency as indigenous and countercolonial.<sup>41</sup> She did this at the cost of effacing the struggles of actually existing indigenous groups against ongoing state colonialism, struggles themselves drawing on transnational discourses and institutions including North and South American indigenous movements. But, in doing so, she demonstrated the elasticity of the notion of indigenous and its function in naturalizing even those social struggles that are potentially to the detriment of actually existing Aboriginal people.

If the indigenous was unhinged from its previous social referent, it was also resituated within a complex field of national and international civil and human rights standards of acceptable and unacceptable social and cultural difference.<sup>42</sup> International bodies produced protocols and held conventions outlining what practices violated human rights, gender rights, racial rights, and cultural rights. Foreign national public debates ensued on the limits of cultural tolerance within liberal multicultural formations, which then circulated through the transnational mass media. Pederasts and gays, religions and cults, cliterodectomies and genital mutilations: national news media struggled to differentiate international forms and their good and bad cultural incarnations, their normative and grotesque referents, their relative values,





FIGURE 2. “Bondi Beach Sacred Site.” (Photograph in *The Weekend Australian*, 26–27 June 1999, p. 23.)

and their deformation and reformation of citizenship. Public debate centered, on the one hand, on the question of how courts could prohibit indigenous ritual practices as repugnant to the common law while allowing western sexual practices or religious practices; and, on the other hand, on the question of who deserved the reparative legislation of the state.<sup>43</sup> These debates were driven not so much by the actual amount of land and benefits returned, but by the fact that the process was occurring at the moment when white Australians were suffering from an uncertain future.

When the Australian state, law, and public struggle to piece together a new form of national cohesion in the midst of these modes of difference, they are not acting in bad faith. Nor is Australian multiculturalism ideological in the sense of masking a dominant class interest. Instead, Australian multiculturalism is a deeply optimistic liberal engagement with the democratic form under conditions of extreme torsion as social and cultural differences proliferate and as capital formations change. This engagement is generating, in the words of Slavoj Žižek, “‘utopian’ narratives of possible [if, in the end,] failed alternative histories,” which, nevertheless, “point towards the system’s antagonistic character” and thereby “‘estrangle’ [the nation from] the self-evidence of its established character.”<sup>44</sup> The real optimism of Australian multiculturalism is what I trouble and am troubled by in this book—its affective, not simply discursive and institutional, dimensions.

To be sure, the problems indigenous people face in Australia are not unique

to them. But the indigenous does seem to be playing a particular role in debates on multiculturalism. The concept, as opposed to the actual socially embedded persons, seems to be providing the nation an experience of “before nationalism,” and an experience of a time before the failures and compromises of national projects. But rather than offering a counternational form, the concept of the indigenous seems to be purifying and redeeming the ideal image of the nation (a problem I take up explicitly in chapter 1). Still, while Australia is an interesting site to explore the conjuncture between indigenous forms of difference and national forms of citizenship, the problem indigenous people face in Australia is faced elsewhere. South Africa, the European Union, Canada: we are witnessing a global adjustment of the constitution of public and legal national imaginaries as state institutions and public sympathy attempt to address the multiplicity of social identities and traditions constituting and circulating through the contemporary nation. Whether the solution is the constitutional protection of a serialized set of social identities (South Africa<sup>45</sup>) or public and constitutional proclamations of the worth of all cultures “that have animated whole societies over some considerable stretch of time” (Canada<sup>46</sup>), we must bear in mind the following: First, the emergence of national formations of toleration need not have emerged in these particular forms. There is no necessary fit or identity between the crisis to which these forms respond and the forms themselves. Second, these emergent national forms have merely responded to, not solved, the crisis from which they have emerged, namely, the stance liberal national subjects should take toward the compulsory aspects of others’ “cultures.” It is important to repeat these concepts, and to repeat them again and again if we are to quiet the celebratory sounds of the New Society long enough to hear the ideologies of the actual.

The partiality of multiculturalism as manifest in Western Europe, the United States, and the Pacific finds exemplary expression at the tip of the clitoris. In the late 1990s, an economically depressed and politically terrorized France could not agree on the grounds for excluding the North African diaspora living in the country, but could, at least initially, agree on the necessity of outlawing the “genital mutilations” some of the community “inflicts” on its young girls.<sup>47</sup> Moreover, in 1996, the U.S. Congress outlawed North African ceremonial clitoridectomies and directed U.S. representatives to the World Bank and other international financial institutions to withhold billions of dollars in aid to twenty-eight African countries if they did not sponsor education programs aimed at eradicating the practice.<sup>48</sup> A putative prodiversity presi-

dent signed this bill in a national “post-civil rights” context in which “most Americans believe themselves and the nation to be opposed to racism and in favor of a multiracial, multiethnic pluralism.”<sup>49</sup> The U.S. Congress did not pass legislation outlawing individual-based consumerized “mutilations”; that is, the trade in piercing, tattooing, and transsexual surgery. In 1997 some members of the Illinois legislature proposed a bill that would stiffen this federal legislation in the state. The urgency they expressed, which suggested that the Midwest was in the grip of a clitoridectomy epidemic, was perhaps rather more motivated by their anxiety that urban areas like Chicago were haunted by the black Muslim movement.<sup>50</sup> In France and the United States, state officials and public figures struggled to maintain a utopian image of a national culture against the pressure of transnational migration and internal ethnic divisions by holding up this clipped bundle of nerves to public scrutiny as the limit of a “civilized” nation’s tolerance of its internal “cultural” diversity.

State and public figures made clitoridectomy and bride murder a commonsense limit of nationalism, and thereby produced a “civil nation” from this limit not simply by referring to the universal principles that the practice violated but by evoking complex affective reactions. They did what Gramsci insisted was necessary to hegemonic projects: they cohered a national will through passionate dramas and experiences of intimate community, not for the most part through pedantic argument. Whereas trappings and dramas of religion were critical to the coherence of a national will in Gramsci’s time, now the putative preideological truth of a feeling roused by an encounter with fundamental alterity is critical to “the formation of a national-popular collective will” that the state can use to produce “a superior, total, form of modern civilization.”<sup>51</sup> As if they deeply understood these thoughts, state and public figures trumpeted the national shame of allowing *such practices* of savagery and barbarism, of ignorance and superstition, to take place within its borders. The phrase “such practices” acts to expand the field of shame and cast a pall over unnamed subaltern practices where no national-popular collective will would be possible and over entire continents where such practices are imagined to occur.<sup>52</sup> In sum, they took a stance on how a citizen *ought* to understand his or her experience of the fundamental alterity of other moral orders—that is, what is and *should* be the proper attitude of persons to their own and others’ modal feelings (what they *should, ought, must* act)—and how these attitudes should determine the distribution of rights, sympathy, and resources in national and global contexts. It is exactly the metamorphosis of these ethical feelings that I track in this book.

For the moment, the above national fetish of severed nerves seems to weld the contradictions and ambivalences of liberal multiculturalism.<sup>53</sup> But when official spokespersons of national culture repudiate subaltern practices by evoking the nation's aversion to them, they encounter the difficulty of discursively grounding their moral claim within a multicultural discourse.<sup>54</sup> And they encounter the double-edged nature of using discourses and affects such as shame as a tool for building national collective wills. On the one hand, as the ban on clitoridectomies shows, certain subaltern practices can produce the experience of a *national* collective will, even in the midst of public debate, by producing an experience of intimate communal aversion to the barbaric, uneducated, and savage practice that *we* as a civilized nation cannot allow to occur within *our* borders. A particular body of belief is, at least temporarily, elevated to the status of a universal principle primarily through pageantries of corporeal shame and revulsion. But in this case as in others liberal democratic societies are now haunted by the specter of mistaken intolerance. They now know that in time their deepest moral impulses may be exposed to be historically contingent, mere prejudices masquerading as universal principles. In particular, past colonial and civil rights abuses cast a shadow over present moments of national and individual intolerance.<sup>55</sup> In the "historical mutation" of the modern liberal democratic society, not only are many "universal grounding[s] . . . contemplated with deep suspicion" but every moment of moral judgment is potentially a moment of acute personal and national embarrassment.<sup>56</sup> Popular and critical thinkers suffer their (in)tolerance; they do not simply decide to be tolerant or intolerant. Liberal members of democratic societies stumble, lose their breath, and panic, even if ever so slightly, when asked to say why, on what grounds, and according to whom is a practice a moral, national limit of tolerance. And, as they panic, they show how the logic of multiculturalism disorganizes the discursive and imaginary field that every limit to it coheres.

It is the contemporary intractability of these questions—and the social generativity of these nonpassages—that interest me in this book. The lost certainty of its moral groundings wracks national hegemonic projects and helps explain the force of national cultural censure in those moments when some national collective will can be found or forged. The nausea created by these shifting grounds becomes especially clear in public debates over particular national intolerances, in which the difficulty of grounding (in)tolerance in specific instances spreads and threatens the general notion of the nation itself, along with a nation-based identity and identification. These anxious national

debates circulate through national and transnational mass media and intellectual publics and become much broader crises of modernism, liberalism, humanism, and the democratic polity. After all this history, whose nation is any one nation, after all? Who, after all this history, owns modernity and its hallmarks, humanism and democracy? What groups do humanism, democracy, and the common law serve, protect, and maintain? These questions generate new social discourses, institutions, and subjects.

This is the nerve ending I seek here to understand: how a state and public leans on a multicultural imaginary to defer the problems that capital, (post)colonialism, and human diasporas pose to national identity in the late twentieth and early twenty-first centuries. How do these state, public, and capital multicultural discourses, apparatuses, and imaginaries defuse struggles for liberation waged against the modern liberal state and recuperate these struggles as moments in which the future of the nation and its core institutions and values are ensured rather than shaken; how they recreate a superordinate monocultural referent, chase a transcultural if not transcendental desire, a flickering *something* beyond our differences, even as they purport to be recognizing the cultural subjects standing before them. And, finally, how they open up a space for critical reimaginings of social life as indigent subjects creatively engage the slippages, dispersions, and ambivalences of discursive and moral formations that make up their lives.

At this switch point, when multiculturalism becomes the grounds for a new transcendental national monoculturalism, the state struggle for hegemony depends on representing and working through liberal practices and intentions in two very different registers. On the one hand, juridical, political, and public spokespersons deploy an abstract language of law, citizenship, and rights—a principled, universalizing, pedantic language. On the other hand, they deploy a language of love and shame, of haunted dreams, of traumatic and reparative memory, of intimacy and desire. Dominant and subordinate social groups draw each other into in an intimate drama of global discourse and capital, of national identity, of history and consciousness. And as they do, shame and reconciliation, a public collective purging of the past, become an index and requirement of a new abstracted national membership. But law and public do not require all citizens to undergo the same type of public, corporeal cleansing, the same type of psychic and historical reformation.

“Suppose they do not know how to cease to be themselves.” Suppose your life depends on performing this ontological trick.

## THE LAY OF THE LAND

In many ways this volume is the result of a classical anthropological approach to social analysis. I have spent the last seventeen years living with and working on behalf of a small group of people, most of whom live at Belyuen, a small indigenous community on the Cox Peninsula located on the western side of the Darwin Harbor in the Northern Territory of Australia. Other indigenous men and women with whom I have worked live in Darwin and along the coastal communities stretching along the coast from Belyuen to Port Keats (Wadeye), Northern Territory. Year after year I have returned to this small coastal area, acting sometimes as a driver, sometimes as a senior anthropological adviser for land and sea claims, and sometimes as a hunter—shooting more wallabies, pigs, cockatoos, geese, and goanna than I care to remember. At other times I have been a ceremonial actor, a mom, grandmother, wife, kid, and white lady. Children born after I arrived in 1984 are now adults, some with kids. I am an old lady at thirty-nine.

The people I work with go about living their lives within a background both incredibly rich and incredibly brutal. Year after year, I have watched women and men die from the diseases of poverty at ages that would shock those for whom life does not seem a privilege. Tuberculosis, kidney failure, chronic bronchitis, lung cancer: the bodies of those of us who live are mottled with scars from tropical ulcers, fights, and ceremonial practices. I have been asked, and I have asked myself many times, why in the light of so much death and so much life, of the political and economic and social structures of discrimination and poverty most indigenous people face in Australia and certainly in the indigenous communities I live and work in, why the following book is written as an extended, historically and sociologically grounded, theoretical essay.

In other words, several questions faced me as I attempted to write a critique of the liberal diaspora in the context of indigenous Australia. Most straightforward of the questions is where do the people I have lived and worked with over the last seventeen years appear in the narrative of this liberal diaspora? And where do other indigenous actors, agents, and subjects appear in the narrative of how a new metaethics—and critique—of Australian nationalism was generated. As should be apparent from this introduction, the answer is not at all straightforward. These people certainly appear in an explicit way throughout this book. Although I am centrally concerned with settler experiences of the nonpassage between understanding-based ideologies of justice and subjective-based ideologies of morality, this volume continually situates

this experience in an actively responsive indigenous social world. Indeed, if I begin the book with a concern for the material mediations of an emergent multicultural Australia, I end it with a concern about how a specific non-passage between reason and morality has been exploited by a particular Aboriginal community. But indigenous persons are the agents of this book in a deeper and more profound sense. They provided the insight and incitement to think critically about the self-evident good of liberalism and liberal recognition.

Second, how do I describe the creative engagement of indigenous subjects with the impasses that liberal diasporas present to them, without their creative response becoming the source for a new heroic rhetoric of liberalism itself? To be sure, many indigenous persons embrace the institutions and ideals of a multicultural form of liberal nationalism. I would just repeat that it does not seem necessary to me to conceptualize a homogeneous social order in order to conceptualize the vital sociological consequences of moments in which indigenous and nonindigenous subjects (or any subjects for that matter) experience contrasting obligations to reasoned argument and moral sensibility — *no matter their various stances toward these impasses*.

Third, how is the story I tell exemplary of a movement in social critique outside this particular social context? If this book gives the story about the generative role the indigenous plays in the emergence and form of Australian multiculturalism, it is not about this story at all. Rather it is about how the social sciences and socially inflected humanities analytically approach the various historical determinations, displacements, iterations, and irritations of contrasting orders of knowledge and obligation in (liberal) societies. It returns to the spirit, if not the conceptual framework, of Durkheim's call for a sociological science of the ought in order to develop an ethnography not simply of existing states of mood and modality, of propositionality and obligation, and of moral possibility and necessity, but also of the conditions of their emergence and transformation as social phenomena.<sup>57</sup> After all, the unimaginable is imagined. And the reasons it is have interested social theorists throughout the twentieth century. In approaching the question of why new modes of knowledge and obligation emerge, I rely on a specific understanding of the trial determinations of social life that I mentioned above — material institutions, semiotics, and (inter)subjectivity. This book is not, however, a theoretical elaboration of the broader conceptual space it relies on.<sup>58</sup>

Nor is this book a standard ethnography of one social group or a standard sociology of a single historical or institutional site. Whatever analytic

power such studies have, and such power they do have, in this book I attempt to demonstrate the dynamic of liberal impasses from a different critical perspective, from the perspective of a critique of the liberal notion of self-correction. Liberal procedural accounts of public reason highlight the self-correcting nature of rational argument. The self-reflexivity of public reason leads over time toward a shared and better sense of public opinion because it is supposedly (ideally) oriented only to the best argument, and, as more persuasive arguments arise, they continually renew, emend, revise, and rectify past accounts. This provides the historicity of public reason. But liberal reason is not merely a discursive procedure, it is institutional dynamic. In other words, the dynamic among the domains of liberal society provides for a similar self-correcting movement. In the case I analyze, court members may well represent themselves as making decisions according to precedent and other genre-specific procedures of the juridical domain, but they also understand themselves to be continually revealing the relevance of the common law to contemporary public opinion of what constitutes the good, the tolerable, the abhorrent, and the just and to statutory laws passed by parliaments and congresses (themselves understood as reflecting the public will). Legal readings of statutory law and common law precedent are constantly represented as being corrected by the dynamic among publics, state, and civil society.

As with all pieces of writing this book reflects a decision to approach the conditions of these discriminatory practices in a particular way. It does not, for instance, present a general political economy of land rights or territorial distribution in Australia; that is, how much land has actually been redistributed under the various land rights and native title laws now in existence. Nor does it provide an extended account of the forms of title available to indigenous Australians under the various statutory laws and their specific contradictory demands.<sup>59</sup> Nor does it provide an extended account of how one group of indigenous Australians has grappled with the legal, political, and cultural conditions of Australian multiculturalism, although throughout and especially in the last two chapters, the focus is exactly on these questions.<sup>60</sup>

The chapters of this book reflect an attempt to understand the various discursive, subjective, and material/institutional mediations of liberal social life on the one hand, and, on the other, the manner in which the historical impasse of public and moral reason has generated a new metaethics of national life; namely, multiculturalism. The central rhythm of the text is a return in different contexts and archival materials to an impossible demand placed on indigenous and nonindigenous Australian subjects within the discursive and



performative regime of settler multiculturalism and their creative response to these impasses. Different chapters slice into different regions of this impasse. Chapter 1 tracks this impasse across public sphere representations of an indigenous multiculturalism, while chapter 4 focuses on the generative force of this impasse in one state institution — the High Court — and more specifically its judgments on native title. Chapter 1 asks what the state and nation are recognizing and finding worthy when they embrace the “ancient laws” of indigenous Australia: how is this thing socially produced and politically practiced; and why must Aboriginal persons identify with it to gain access to public sympathy and state resources. The chapter tracks public debates over the worth of ancient aboriginal law, legal mandates on the form traditional culture must take, and mass-mediated commercial portraits of traditional indigenous culture. Chapter 4 turns to two High Court cases, *Eddie Mabo v. the State of Queensland* (1992) and *The Wik Peoples v. The State of Queensland* (1996) to examine how liberal legal subjects manage to protect themselves from experiencing, in the moment of cultural discrimination, the experience of future negative judgment. How is judgment possible in multicultural contexts? And how do judges escape as individuals, and as the authors and proponents of social projects, the unconditional of the future perfect proposition: We will have been wrong.

Chapters 2 and 3 examine the ways in which particular forms of indigenous corporeality (ritual sex) superanimated liberal self-reflection, causing Australian non-Aboriginal citizens to experience their intolerance as their moral and intellectual limits, thereby helping to precipitate the discursive grounds for a new national ideological formation. These chapters view the social generativity of the impasse between public and moral reason from the perspective of indigenous and settler everyday life, as do chapters 4 and 5, which return to the present and shift the perspective from settler to indigenous Australians. Chapter 2 takes up the theme of the repugnant and the uncanny in the writings and research of Baldwin Spencer and Frank Gillen as they lived among the Arrente and other central Australian indigenous groups at the turn of the century. It examines the ways in which particular forms of indigenous and settler corporeality, corporeal relations, and corporeal practices (public, violent, playful, ceremonial, noncouple, retributive) superanimated liberal reflection; caused a crisis of reason in Australian non-Aboriginal citizens; caused these citizens to experience their intolerance as their moral and intellectual limits; and helped to precipitate the discursive grounds for a new national ideological formation. Spencer and Gillen’s writings are read not to produce

a historiography of settler sexuality so much as to situate the problem of the indigenous difference in the national archive. Chapter 3 continues this examination of the nonpassage between understanding and obligation played in the emergence of the Australian indigenous multicultural. It examines administrative, public, and anthropological debates about how indigenous and settler sexuality should be administered in the Daly River region in order to examine the emergence of a new multicultural metaethics of Australian nationalism in the field of indigenous and settler interaction in the 1930s and 40s. Both chapters foreground the problem of the national archive of the repugnant in contemporary indigenous efforts to secure an acceptable form of cultural difference.

The last two chapters discuss how the relatives of Betty Bilawag attempt to produce a felicitous form of cultural difference within the shadow of these liberal archives, institutions, discourses, and subjectivities. They examine how these histories of difference, their institutions of law and common sense, play out in a community's attempt to claim land under the Aboriginal Land Rights (Northern Territory) Act, 1976. Chapter 5 examines Belyuen women and men's reading of the national archive in order to show how they experience, grapple with, and try to produce a legally and morally workable form of locality by articulating local social processes, often themselves contested, with the federal law of land rights and cultural difference. I try to show how these women and men make Belyuen a socially felicitous place as they engage the legal and social forms within which they live; the archived memorial forms of their own histories; the national and transnational circulations of these forms; and their own ambivalences toward the traditions, identities, and identifications of this archive in light of changing standards of the legally and normatively acceptable.

Chapter 6 concludes by examining the fate of Aboriginal belief in the context of three principles of contemporary liberal multiculturalism: that all deliberations that affect the public should be accessible to public scrutiny; that the validity of an argument stands in a negative relation to self-interest (the more disinterested a position is, the more likely it is to be universally valid and rational); and that in certain contexts principled public debate ought to give way to a collective moral sense—and, not only that public debate must give way, but that collective moral sense should be protected from the procedures of critical reason. The chapter asks, in the shadow of these liberal ideals, how Belyuen women and men produce “true beliefs” in the practice of land claims.