

RESEARCH ARTICLE

Martuwarra Fitzroy River Watershed: One society, one river law

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[¶] The Martuwarra, River Of Life, is a living Ancestor Being, whose creation stories underpin Kimberley Aboriginal people's lawful, physical, emotional, and spiritual well-being, and thousands of years of customary practices for Yi-Martuwarra people, the people of the river. The discipline of environmental humanities looks at how both humans and non-humans can come together to protect the environment for humanity and the world. This multi-species approach transcends the usual boundaries of science, humanities, culture and nature, and in doing so illustrate the concept of "nature-cultures" described by Bruno Latour (2013, available from <https://ecomig2014.files.wordpress.com/2014/08/178919402-latour-bruno-an-inquiry-into-modes-of-existence-an-anthropology-of-the-moderns-pdf.pdf>)—creating a "sympoesis" (Haraway, 2016—DOI: <https://doi.org/10.1215/9780822373780>) which enables multiple actors, both human and non-human, to effect change at a global level. In view of this, the Martuwarra is credited as First Author for Country, and the protection of Country, is the central tenet of this paper—without Country, without the River, and its complex, multi-layered, and ever-evolving inter-relationships with its custodians, there would not be a paper.

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Abstract

The paper is an account of the work undertaken within 'Martuwarra', the Fitzroy River Watershed, in the Kimberley region of Western Australia. It is led by the sacred ancestral River, Martuwarra, who is given agency as a published author, and the creator of First Law, *Warloongariy* Law. Poelina and Perdrisat come to this story through their lived experience as a *Yi-Martuwarra maminil*, Nyikina Warrwa Indigenous Australian women who belong to Martuwarra. McDuffie comes as a long-time non-Indigenous friend, family, filmmaker, who completed her doctoral research continuing her deep and enduring relationship with Nyikina people. Our work examines the colonial approaches still in use by government and industry, which are responsible for the ongoing injustices experienced by Indigenous Australians, our environment, and our non-human kin. It suggests implications for future research, education and policy, with a focus on watershed approaches, on moving from dis-ease towards health, through modelling economic and social well-being for the sustainability of the lifeways of everything and everyone around us. We see ourselves as 'one society' of planetary citizens, working to transform watersheds, globally, seeing cultural flows in all forms of living water as life, critical to sustain humanity within our common home, Mother Earth. We believe this can only be achieved by valuing the wisdom of Indigenous peoples, igniting our dialogic actions through an ethics of care, love, and peace.

1. Introduction

In this paper, we have adopted a methodological framework as 'stories', using multiple mediums, to illuminate the pathway and connections between the Martuwarra watershed, human

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and non-human health and wellbeing, through a socio-ecological systems approach [1]. In giving first authorship to the Martuwarra, and including multiple authors' perspectives, this story highlights how multi-disciplinary, collaborative, and on-the-ground strategies can collectively respond to the political role governments play in garnering wider community support to justify their perpetuation of human disadvantage and, cultural and environmental devastation for the benefit of corporations and multinational companies [2, 3].

Poelina's research position is as an 'insider', invited as part of a Special Collection in 'Watersheds and Health' to write this story to contribute to an article on a globally significant 'watershed', Martuwarra, the Fitzroy River. Poelina comes as an active community leader, human and earth rights advocate, filmmaker, as well as a respected academic researcher, with a second Doctor of Philosophy titled, 'Martuwarra First Law Multi-Species Justice Declaration of Interdependence: Wellbeing of Land, Living Waters, and Indigenous Australian People' [4].

As second author of this paper, '*nagyooyi-martuwarra marnin*', she comes as a guardian, a woman who belongs to Martuwarra, a deep insider, taught by elders of high degree, including mothers, sisters, and now, writing this paper with Perdrisat, her daughter. Both Poelina and Perdrisat have listened to the stories of their family and kin, and importantly how Maggie Chalmers, their direct matrilineal ancestor, survived a massacre in *Kandarra* (St George Ranges) in 1867 [5] (Rosie & Grace Mulligan in [6], p143). This knowledge, these stories, and customary practices have been taught and shared throughout their life-long, intergenerational learning and practice of First Law [7].

Being sovereign people, Poelina and Perdrisat know first-hand what living in disadvantage, and with intergenerational trauma [8], means. Both live according to their spiritual practice to 'stand and hold the land and living waters', for ALL human and non-human kin, fulfilling obligations, in a guardianship role, under First Law. As guardians of Martuwarra, they have a moral obligation, a duty of care to give voice to our ancestral serpent guardian, *Yoongoorrockoo*, to ensure Martuwarra continues to have a right to life, but importantly, also a right to flow [9]. The risk of foreseeable harm and cultural loss, particularly through the ongoing destruction of our sacred sites [10], is of public interest. It must be communicated to the region, nation and outwards to the world, that the current impacts on the Martuwarra Watershed are evidence of Australia failing to uphold the rights described in Articles 8, 11, and 12 of the United Nations Declaration on the Rights of Indigenous People [11].

Poelina is also a proud Peter Cullen Fellow for Water Leadership, having completed this award in 2011. The Peter Cullen Trust seeks 'to improve Australia's water and environmental management [with a view to] enhance the link between good science and effective policy making', through meaningful collaborations with local communities [12]. Since then, walking in his footsteps, Poelina often ponders, 'what would Peter think? Would he question this?'. One of her tasks as a knowledge broker is to consider which individuals, institutions and politicians can be called on to become part of the journey, to champion the sustainability of watersheds, their people, and to learn to see their multiple values in a different and positive way. In doing this, Poelina was awarded a Laureate from the Women's World Summit Foundation (Geneva) in 2017 and was elected Chair of the Martuwarra Fitzroy River Council (2018). Poelina also holds memberships to various national and global Think Tanks and was recently appointed to the Murray Darling Basin Authority (MDBA) as the inaugural First Nations member of its independent Advisory Committee on Social, Economic and Environmental Sciences. Poelina has extended the opportunity to include Perdrisat and McDuffie as both family and authors into this paper to ensure we have collective wisdom informing the story, going forward. McDuffie has worked for eighteen years with and for Aboriginal communities across Australia as a filmmaker and researcher. Their collaborative short films and documentaries have been screened in numerous national and international conferences, international film festivals, at the United Nations, and on national Australian television. Working with three Nyikina sisters

and Senior Nyikina Elders, McDuffie's PhD thesis examined how Nyikina women's voices influenced cultural actions, economic and self-determination initiatives, through filmed interviews and narratives [6]. She has been working with Nyikina people for the past sixteen years on various collaborative film and research projects. In terms of storytelling, McDuffie conceives of film as a dialogic, participatory, iterative process in constant regeneration, not just a product, through which research participants are enabled to be in control of the process. This collaboration occurs in an intercultural, relational space, through deep listening, and learning to see the Aboriginal world, in place, on Country. In conjunction with her professional capacity as filmmaker, the role of researcher bears significant influence on the film process and enables her to facilitate the expression and the emergence of counter-discourses in multiple domains: history, gender issues, anthropology, development, and agency. In this way, film plays a paramount role in reclaiming Eurocentric discourses. In learning to see Country, and listening to Nyikina creation stories of the Martuwarra, and as a non-Indigenous ally, McDuffie has developed close ties with Nyikina people, as well as her own relationship with the River.

Part 1 foregrounds the authors' methodology, centred around storytelling and Indigenous and non-Indigenous people's collective actions to protect and decolonise Martuwarra. It demonstrates how multi-disciplinary storytelling can be used as part of an inclusive approach to give voice to Indigenous perspectives, illustrating the importance of Indigenous science as a basis for dialogic action to enact change at a global level for a just and equitable future for all. In Parts 2 and 3, the authors situate the Martuwarra Watershed, or Fitzroy River Catchment, within its geographical, historical, social and cultural context, and explore the significance of Indigenous Law, or First Law, in contemporary debates on sustainability. Part 4 showcases the ground-breaking work of the Martuwarra Fitzroy River Council as an inclusive governance model challenging Western development perspectives, and decolonising current debates on development and sustainability. Part 5 explores the implications of this work in a national and global context, framed within the current debates on climate change and ecocide, and how the Martuwarra Fitzroy River Council is co-designing hope for all future generations of the world.

2. Methodology: All about collaborative storytelling

As a significant component of our methodology, storytelling has reaffirmed Yi-Martuwarra people's collective will to identify strategies to decolonise Martuwarra [13, 14]. Stories of place, and of lived experiences, past and present, give Indigenous people agency to oversee the way they are represented: as acts of inscription, stories are performances which enable Indigenous singularities across Australia [15, p2] and non-Indigenous people across the world to connect, renewing old and forming new social alliances [6, p95]. Stories from Martuwarra, such as in the film *Voices for the Martuwarra* [16] highlight the connections between watersheds, health, and holistic wellbeing [17]. This socio-ecological systems approach, underpinned by multidisciplinary and resilience concepts [1], is grounded in our First Law, Indigenous philosophy, daily customary practices, and worldviews, inscribed in ancient stories across generations which are still relevant to our modern times [18, 19]. This relevance is best illustrated in the present endeavours of young Indigenous people, such as Perdrisat, Poelina's daughter, who graduated with a Juris Doctor (Law) from the University of Sydney, and recently held a TedX talk about the significance, and permanence, of Indigenous languages [20]. The film she directed, *First Law*, is critical to an understanding of planetary survival [21], and through Perdrisat's storytelling she advocates the opportunity and benefits of learning from Indigenous people about how these knowledge systems continue to be shared across generations. Importantly, how these contemporary stories are necessary for the transition and transformation required for humanity and planetary wellbeing to have a climate chance.

Similarly, the film *Voices for the Martuwarra* [16] gives voice to our sacred Martuwarra and to multiple generations of Yi-Martuwarra people through many generations striving to protect the right of our River to live and flow [22]. *Voices for the Martuwarra* is a collaborative documentary featuring interviews with members of the Martuwarra Fitzroy River Council, scientists, environmentalists, and researchers. Through breathtaking visuals of Martuwarra, and engaging interviews with multiple stakeholders, the film retraces the creation of the Council, and depicts the profound and complex inter-relatedness between culture, Country, Living Waters, and the humans and non-humans [23] inhabiting the watershed. As a call for action, it also reminds audiences of the reasons why, in the age of the Anthropocene [23] and Climate Emergency, it is more important than ever to listen to Indigenous voices, as these stories reveal the complexity of climate change and the importance of collective wisdom which hold solutions for the future of humanity and of our planet.

Indigenous knowledge and customary contemporary practices contribute to climate science by offering observations and interpretations at a much finer spatial scale with considerable temporal depth, and by highlighting elements that may not be considered by climate scientists [24]. It also humanises climate-related issues such as sea level rises, food security and cultural sustainability, as depicted in our film, *Our Commons and Shared Future* [25]. As the driving force of the earth's climate and the storeroom of complex ecosystems and marine biodiversity, watersheds are the lungs of the planet, a diverse space that has acted as a sentinel to the many species that have evolved in this globally significant region. Gooniyandi Elder and artist Mervyn Street, in collaboration with Dr Laborde, created a powerful visual to share the meaning of his relationship with the Martuwarra Fitzroy River Watershed, representing water courses as the veins of the Country [26].

According to Anton Ford, the point of practical reasoning is to act, but action is inevitably a consort with particular people and particular objects in particular circumstances [27]. Senior Nyikina Elder, Paddy Roe, always said, '*send the dream out and walk in it*' [18], in other words, take action with those who care, who share similar values and ethics, and, importantly, believe in the dream that the Martuwarra Fitzroy River watershed, which '*Always Was and Always Will Be*', has the right to live and flow [28].

Yi-Martuwarra people acknowledge decolonisation begins with dialogic action [29]. Our role as researchers, brokers and storytellers is to work with Elders, leaders, families, friends, and colleagues to better understand how 'just development on just terms' can be achieved for the greater good of all of us through procedural and distributive justice achieved through multiple stakeholders; government, industry and community engagement and cooperation and informed decision-making on development projects which impacts on land, water and people [30, 31]. Kimberley Indigenous leaders share their resilience around learning and sharing, as part of their investment towards intergenerational equity and justice. This knowledge making has implications for current and future generations, across diverse governance, legal, education and environmental policy and practice.

We collectively write and rewrite, all the while being constantly reminded by elders to 'sit on the ground, so you have nowhere to fall'. The need to stay humble comes with acknowledging that we are dealing with complex circumstances and need collective wisdom in exploring solutions for watershed and planetary wellbeing [17]. The pathway put forward by the 'Coalition of Hope' illuminates the ways to foster planetary wellbeing, lifeways, and livelihoods through First Law, and the protection of this globally unique greenfield, the Martuwarra Fitzroy River Watershed [32, 33].

These stories reaffirm Aboriginal people continue to have a responsibility to care and ensure our living waters and cultural landscapes are kept alive, healthy, and safe for current and future generations. They provide the opportunity to contribute towards a body of

knowledge, to transform legal pluralism to incorporate the cultural authority of Indigenous Australians of the West Kimberley, and to reframe our relationship with governments to improve our wellbeing, and foster freedom, justice and hope [34]. Only then can we begin the dialogic action to create peace and transform our lives and the wellbeing of this globally unique Martuwarra, Fitzroy River Watershed.

3. The Martuwarra watershed

3.1 Location

The Martuwarra Watershed, or Fitzroy River Catchment, is not only a geological feature from a Western standpoint, but also the living ancestor and sacred source of a holistic system of Law, leadership, and governance, which we were born into and are bound to by a moral contract to nurture and protect. Listed on the National Heritage List in August 2011 for its environmental and cultural values [35], this globally unique river system [32], Martuwarra, the Fitzroy River, is the longest river in the Kimberley region of Western Australia (WA) and has its source in the *Wunaamin Miliwundi* (King Leopold) Ranges. Its catchment area is almost 100,000km², and its floodplains are up to fifteen kilometres wide. The Kimberley is one of Australia’s fifteen biodiversity hotspots [36]. Many Indigenous nations are connected to Martuwarra through one or more affiliations (Fig 1): birth, family connections, totemic affiliation, kinship systems, ray/rai [spirit children], inter-marriage, residence, history, and displacement, all have a part in Kimberley people’s Indigenous identity [37].

All Indigenous Nations in this watershed are defined as ‘One Society under *Warloongarri* Law’ [38]. Prior to colonisation, the Martuwarra watershed was a well-managed ‘estate’ [39]:

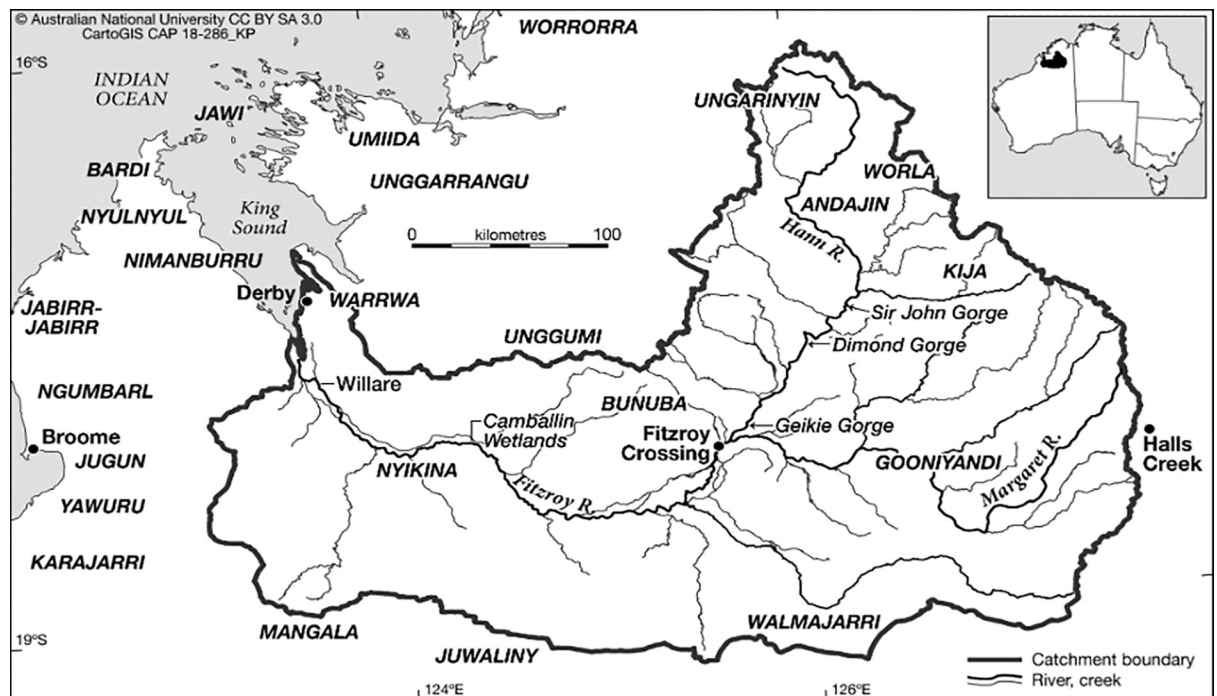


Fig 1. Towns and languages of the Fitzroy River Catchment. Kimberley Language Resource Centre (KLRC). *Note: Language label location is indicative not exact.* Available from: https://www.researchgate.net/figure/Location-of-the-Martuwarra-Fitzroy-River-Catchment-Western-Australia-showing-the_fig1_337653597.

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over thousands of years, Yi-Martuwarra people, the people from the River country, used ecologically attuned practices, including fires, to shape, protect, maintain and regenerate its living landscapes [30, 40].

3.2 Context

After more than 60,000 years of collective wisdom and sustainable management of this watershed estate, through First Law and reciprocal obligations, Kimberley Indigenous People were forcibly displaced, jailed, and massacred by settlers and pastoralists [41, 42] seeking the ‘agricultural progress of the colony’ in the late 19th century [5, p36, 40].

This invasive colonial development of the Kimberley region commenced with the arrival of Europeans in 1837. Lone explorers marvelled at the richness of Martuwarra Country in their diaries [40], seeing the region purely through the lens of economic exploitation for the benefits of Britain, their Mother Country. They were soon followed by the pearlers, pastoralists, and missionaries. For Yi-Martuwarra people, and Kimberley Aboriginal people at large, the invasion of their Country was synonymous with frontier conflicts, massacres, kidnappings, removals from their ancestral lands, imprisonments, forced relocation to religious missions, and later, with work as slave labour on pastoral stations until the end of the 1960s [6, 41, p163]. Bound by the social Darwinist theories of the time, and the concept of biological determinism [43], the Western knowledge system marginalised or disqualified anything that did not belong to it, discounting alternative views [6, 44, p3], and pitting traditional versus modern, and culture, versus progress. Over time, the settler colonial state legitimised some knowledges over others which were progressively devalued [45, pp41-42], leaving very little space for development alternatives looking at social, cultural, spiritual, and economic well-being as a holistic domain [6, p169].

Historically, from invasion onwards, governments have promoted the narrative that industrial development will create employment and social benefits for local people. Yet the lived experience of local Indigenous people demonstrates there are very few jobs in mineral and fossil fuel extraction, and industrial scale irrigation industries [46]. The few jobs that are created come at the cost of exploiting and destroying sacred ancestral cultural spiritual places and waterways. The quality of life and well-being of Indigenous people is therefore overlooked as a sacrifice for development, to improve the so-called national ‘greater good’ [30]. After 150 years of invasive development of Martuwarra, Indigenous lives and the lives of our non-human family, the birds, the fish, the animals and the environment at large have been transformed from a world of peace, happiness and sharing, into a situation of incremental genocide [30, 40].

In view of this historical context, and of the current governments’ development agenda, which continues to deeply impact Indigenous people on their Country, the storying of Indigenous laws, customs and lived experiences is vital to ensuring Indigenous voices are at the centre of informed decision-making, to protect or destroy Aboriginal cultural heritage sites. These unjust development projects, regulated through state law and policies contribute to the slow death of our people, through the destruction of our sacred sites, spirituality, First Law and cultural heritage.

Australian governments are founded on the Terra Nullius myth [47], which was debunked by the Australian High Court in 1992. Other myths such as the denial of the extent and circumstances of Indigenous deaths in custody and the genocidal tactic of stealing generations of Indigenous children from their families have been exposed by successive government inquiries [48, 49]. Australian political leaders continue to deny the truth: over time they have created a culture of denying invasion, massacres, slavery and the continuing colonisation of Indigenous Australians [50]. As Viel [51] argues in the context of Canadian First Nations people, without

acknowledging the truth, there can be no reconciliation. The first step to reconciliation is to agree to a shared truth regarding colonial historical, but also contemporary violence, particularly the violations of human rights responsible for the continuing circumstances Indigenous Australians experience today.

Yi-Martuwarra people live in a society where some enjoy the highest quality of life, yet local Indigenous peoples' quality of life is among the most disadvantaged in the world [52, 53]. Indigenous Australians experience significant levels of suicide and self-harm, incarceration, unemployment, poverty, early death, and violence, both as victims and perpetrators, as well as poor physical, mental, spiritual health, and education outcomes [54] due to intergenerational trauma [8]. Authoritarian government laws, policies, governance processes and procedures continue to diminish intergenerational life opportunities and outcomes for Yi-Martuwarra people, and are responsible for extensive species loss, desertification, and poor land management practices [40, 55].

Kimberley Indigenous people have been witnesses to the mass extinction of local species, to the degradation of our Law, spirituality, and to the theft and destruction of our cultural and biodiverse watershed landscape [40]. Now the land is being scarred up with thousands of kilometres of fracking grid lines in preparation for large-scale development, to frack the entire Martuwarra watershed [56, 57]. Current governments' development agenda continues to be grounded in the philosophy of economic and 'moral progress' [58] and racial superiority. Australian governments have a pivotal role in terms of 'attracting, facilitating, and supporting development' [59]. In a global context, contemporary socio-economic constructs call for short-term productivity of singular assets by placeless multinationals, creating what Tsing calls the capitalist "dream of alienation" [60, pp5-6] for local communities who are the ones, in place, dealing with the cumulative impacts of resource extraction industries [6, 30]. The interests of extractive industries were and continue to be shareholders' economic gains, at the cost of the individuals, societies and nations whose Country was invaded, and who continue to live, love and die within this watershed [40]. This has been perpetuated by ever-changing contemporary policies and laws, facilitating the occupation and destruction of Country [10] by new colonisers, the mining and extractive resource industries, and maintaining a culture of invasive violence and exploitation of Indigenous Australian people, and of our Country, which is not much different from past practices. This has given rise to the deep uncertainty that underpins the impacts of settler colonialism: conflict paradigm, chaos, manipulation, divide and conquer, leading to overwhelming disadvantage [61–63]. The recent destruction of the ancient Juukan Gorge rock art site [10] is a contemporary example of incremental genocide where the politics of economics has garnered government support to permit exploitative destruction of a significant world culture for private corporate interests [30].

In view of this contemporary context, and of the current governments' development agenda, which continues to deeply impact Indigenous people on their Country, the storying of Indigenous laws, customs and lived experiences is vital to ensuring Indigenous voices are at the centre of informed decision-making, to protect or destroy Aboriginal cultural heritage sites. These unjust development projects, regulated through state law and policies contribute to the slow death of our people, through the destruction of our sacred sites, spirituality, and cultural heritage.

Despite these cumulative impacts, characteristic of settler-colonised societies, of anti-dialogic actions, of and scarce, short-term investments, and ongoing failed policies, Indigenous leaders' representatives, appointed under their cultural authority as knowledge holders, are strengthening their capacity to unite in the nurturing and protection of this globally unique watershed, a region of First Law [54].

4. A Region of First Law

Nyikina and Warrwa families, together with other Indigenous families, have sustainably governed and managed the Martuwarra watershed since *Bookarrarra*, the beginning of time. Our First Law, philosophy, values, and ethics have shaped our worldview and in turn our actions and lived experience, particularly our relationship with Country. We have a legal and moral obligation, a responsibility to maintain living waters, to prevent ecocide [29] and the genocide of both human and non-human beings. We argue that Australian Native Title law recognizes that prior to colonisation, Yi-Martuwarra people had, and continue to have, their own laws and customs for managing our River Country [64].

The Kimberley is described as a region of First Law, Law of the land, and not of man [65]. It extends from the Sunrise to the Sundown Country, a bio-regional watershed connecting the top of the freshwater basin to the sea. First Law includes the ancient codes of values, ethics, thoughts, and actions local people inherited from countless generations stretching back to *Bookarrarra*. First Law is earth-centred in that its objective is to maintain the balance, sustainable lifeways and sustainability of all life [66].

These First Law stories are comparable to Ecclesiastic laws which are about cultivating virtues rather than avoiding vices [67]. Mutual responsibilities and obligations play an important role in virtue-based cultures, but they are secondary to the idea of cultivating virtues. We see this woven through both our Indigenous First Law and Christian stories. Australian First Law stories describe parables, stories which teach the laws for guiding our *Liyan*, our instinct, our inner human spirit [68, 69]. Christian virtue ethics, according to Galatians 5:22–23, affirms ‘the fruit of the Spirit is love, joy, peace, patience, kindness, goodness, faithfulness, gentleness, and self-control’ [70]. First Law focuses on building the individual to self-regulation through spiritual Law that informs moral, ethics, values, behaviour and connection. Much as Mathews describes it as the ‘Law in the Living Cosmos’ [71], and in accordance with First Law, we are shifting the thinking from ‘me to we’ [72].

First Law governs the responsible management of the Martuwarra watershed through *Warloongarriy*, the Law of the River, and the *Wunan*, the Law of regional governance. The *Warloongarriy* ceremony re-enacts the *Woonyoomboo* story, when the ancestor being *Woonyoomboo* speared the serpent, *Yoongoorookoo*, who created Martuwarra in the *Bookarrarra* [6, p52]. *Warloongarriy* Law recognises all people living within this unique living hydrological watershed as one society, calling us *Warloongarriy* people [38], bonded in a moral contract of good will and good intent to protect the Martuwarra watershed through a bio-regional governance approach. The *Wunan* Law is a Kimberley-wide network of reciprocal, place-based sharing and ceremonial exchange, based on cultural leadership, which reinforces kinship ties and extends people’s social world through an ongoing circulation of goods and ceremonies [1, 72, p37, 73]. Since *Bookarrarra*, *Warloongarriy* and the *Wunan* Law have provided a framework for understanding the central role of water in all things, and its relationships to everything else.

Our living water systems are our life force, connecting surface to groundwater, uniting the diverse cultural landscapes and people throughout the Kimberley [37]. First Law is the internal energy that is created from love, positive thoughts and actions that contribute to building universal spirit and wellbeing. First Law encompasses all the natural laws for regional-scale, earth-centred governance. Its priority is to maintain the wellbeing of the people, Country, Living Waters and all living things [74].

Our authority comes from the timeless inheritance of ancient songlines and stories that validate their independent and interdependent responsibility for governing rich and sustainable river cultures [68]. First Law is embodied in the skills, knowledge, and respect for maintaining

a positive spirit; connection, harmony and balance for a fertile, peaceful and sustainable world. Living Water is necessary to sustain life including the wellbeing of rare and endangered plants and wildlife, culture, and people. An Indigenous worldview informs holistic development choices that impact at a universal level. It incorporates all forms of local and regional capacity for creating, maintaining, and protecting sustainable Indigenous lifestyles, livelihoods, and environment.

Dialogues with Indigenous leaders nationally and globally have shown there is a need to focus on the impediments for change. This includes being brave in order to challenge the multiple forms of legislation through the opportunity for judicial review, to promote and protect our natural and cultural assets, to build sustainable lifeways and livelihoods, to give young people their due inheritance, their right to reach their full potential, to have dreams, and to live a life worth living [75]. This is being achieved through the efforts of the Martuwarra Fitzroy River Council to build cooperation and unity through a 'coalition of hope' as the basis for decolonising their thinking and practice towards planetary wellbeing and a climate chance.

5. Cooperation and unity

5.1 The Fitzroy River Declaration & the Martuwarra Fitzroy River Council

Kimberley Indigenous people have consistently put forward their own development aspirations, and participated in various discussions, roundtables, and forums about regional development, such as the *Our Place, Our Future* conference (1998), the *Kimberley Appropriate Economies Roundtable* (2005), and the FitzCAM initiative (Fitzroy Catchment Management Group, 2007) [6]. FitzCAM developed networks to share information, with a view to strengthen inclusive river management and planning, identifying common interests to promote collaboration between diverse interest groups. Despite FitzCAM being very successful, having achieved far more than the initial objectives, governments failed to provide ongoing support [76].

In 2016 Yi-Martuwarra people framed a contemporary model of First Law within the Fitzroy River Declaration [77]. The Declaration represents an agreed expression of First Law by six Martuwarra Nations, 'reaffirming the traditional and cultural values of the River, but also presenting a united vision on the future management, care and protection of the Fitzroy River' [6, p190]. Underpinned by the principle of 'One Mind, One Voice', the Fitzroy River Declaration identifies Yi-Martuwarra people's priorities for implementing First Law in modernity and acknowledges the joint and separate management responsibilities of Yi-Martuwarra people regarding their shared and individual sections of the River [77, 78].

In the Declaration, Yi-Martuwarra people state their concerns regarding the potential damage to Martuwarra from the cumulative impacts from the wide range of development proposals for the River: the exploitation of coal, diamonds, uranium, bauxite, iron ore, zinc, precious metals, as well as oil and gas, fracking wells, and large-scale intensive agriculture, are all on the cards for the Kimberley region [30].

This document is the first of its kind in Australia, explicitly recognising both First Law such as *Warloongarriy*, and the inherent rights of nature, in a negotiated instrument. In the Declaration, Yi-Martuwarra nations agree to collaborate and operate on a joint action plan to protect the globally significant spiritual, cultural, environmental, and scientific values of the River. This Indigenous authority comes from a deep relationship with Country, responsible for maintaining spiritual wellbeing and generating sustainable livelihoods and lifeways on Country: we hold the right to practice our Law and spirituality in co-existence, peace, harmony, and balance with our sacred serpent ancestral being, *Yoongoorrookoo*, which formed Martuwarra [64].

This ground-breaking instrument, and the subsequent formation of the Martuwarra Fitzroy River Council (2018), are examples of Kimberley Indigenous nations collaborating to establish

independent legal entities to promote the decolonisation of the Martuwarra Fitzroy River Watershed [79] and of the broader region, for the greater good of all [30]. It is important to value Martuwarra as a globally unique green field area, a living system vital to sustaining humanity and Mother Earth. Through further dialogue and workshops Yi-Martuwarra people came together to establish a cooperative way to work together, to ensure free, prior and informed consent decision making and a pathway for a broader Watershed approach. The advice of Walmajarri Elder, now deceased, Mr Wise, who championed the need to stand and be united, through his 'One Mind and One Voice' vision of leadership, gave rise to the Martuwarra Fitzroy River Council [58].

The Martuwarra Fitzroy River Council is an alliance of Yi-Martuwarra elders in the Fitzroy River catchment: Nyikina, Mangala, Bunuba, Ngarrinyin, Warrwa, Walmajarri and Goo-niyandi Indigenous leaders and knowledge holders have come together to negotiate a multi-stakeholder partnership for justice and a sustainable future. This future recognises and respects Indigenous people's connection to Country particularly the deep knowledge that Indigenous people have regarding managing Country within the bounds of nature's limits [79]. Martuwarra Council members have embraced a moral contract to promote a collective concept of justice and equity for all, inclusive of multi-species justice [34].

The establishment of the Martuwarra Council promotes dialogue for bringing disparate approaches together to ensure adaptive water planning, management and governance. The Martuwarra Council members are working to revitalize trust, respect, kinship, family, and dignity to reclaim cultural synthesis [29] in an effort to reject imposed invasive contemporary models of colonisation. The Martuwarra Council provides a united approach to catchment management and governance to protect the diversity, health and wellbeing, and spirit of the River, people and the environment, as highlighted in the Council's Conservation and Management Plan [80].

The Martuwarra Fitzroy River Council are working to develop multiple forms of evidence through story making to showcase the Martuwarra Fitzroy River watershed and explore implications for current and future research, education, policy and better practice, spearheading collaborative, cutting-edge research into various domains: First Law, culture, science, history, economy and development [81]. The Council is confident our regional governance frameworks can ensure free, prior, and informed consent decision-making. The Council's applied research on regeneration and climate adaptability can foster inter-generational equity and protect the due inheritance and access by all Australians and indeed, the world, to the Fitzroy River Watershed.

The shared learnings of senior Indigenous community researchers, and their university research partners, provide the evidence base to transform Western thinking and practice, by valuing and adding Indigenous knowledge and wisdom into planning and development [82]. Modern sustainability principles recognise the value of resilience [1]. With over 60,000 years of living sustainably with Martuwarra, our people have deep knowledge of creating resilient social-ecological systems. The Martuwarra Fitzroy River Council Conservation and Management Plan [80] has generated a 'Plan', and seeks investments for the implementation of these sustainable, dialogic, and collaborative practices: the question remains: 'what is the cost of not doing this now'? We offer our hand in partnership with those who want to learn from, and with us, to meet the challenges of the future.

5.2. Martuwarra Fitzroy River Council—Giving voice

The Council co-designed two major submissions on water planning and allocations earmarked for this globally unique watershed [83, 84]. The Martuwarra Fitzroy River Council's

submissions focus on the Western Australian government's commitment to developing the Martuwarra Fitzroy River Watershed, using both surface and groundwater systems as a resource for water allocation and extraction. The Martuwarra Fitzroy River Council's position is to engage in a consultative process with government and other stakeholders to consider the opportunity to co-design the water planning and management process to fully understand the cumulative social, cultural, and environmental impacts of development across the Martuwarra Watershed [79, 80].

The Martuwarra Fitzroy River Council collaborated with several key partners to provide two detailed submissions, one to the Derby Water Allocation Plan [83], and the other to contribute to the Western Australian Government Fitzroy River Management Plan discussion [84]. In the legislative reform of the outdated Rights in Irrigation Water (RIWI) Act (1914), the Western Australian government and law makers are developing regulations to manage, develop, and monitor future plans for water allocation from the Fitzroy River. Due consultation by the government with Yi-Martuwarra people, is required to ensure they have full and informed consent decision making. Our collaborative partnership included research and legal scholars from the Environmental Defenders Office (EDO), and the Australian National University Water Justice Hub [84].

The evidence presented in both submissions identified that the ongoing invasive colonial power of the state remains conflicted with the cultural authority of Yi-Martuwarra people. The various independent research peer-reviewed publications reaffirm the narrative that Yi-Martuwarra people are actively exploring opportunities which have been put forward by the global movement to extend legal rights to rivers, as ancestral beings, with a right to live and flow [85]. Furthermore in identifying and protecting the multiple values of this globally unique watershed Yi-Martuwarra people have environmental, natural, cultural and spiritual capital to design alternative development pathways.

There is a real opportunity for new sustainable economies and new ways of doing business with Indigenous people on Indigenous lands: Indigenous aspirations for alternative types of development, such as hybrid economies [86], life projects [87], and cultural actions [88], take into account economic, social, cultural and health considerations [6, p27]. Indigenous leaders understand that by combining traditional values with conservation science, environmental impacts of invasive developments can be mitigated [89]. They are receiving private and philanthropic investment to strengthen their capacity, and to shift from poverty to wealth creation, through the 'forever industries': culture, science, regeneration and tourism [81, 90].

Yi-Martuwarra people, through the Martuwarra Fitzroy River Council, continue to advocate for the Western Australian government to learn from the lessons of the destruction of Jukan Gorge, to prevent the same disaster happening to the Martuwarra Fitzroy River Watershed, by creating a statutory authority to manage the River. Therefore, one of the most important reasons it is *sui generis* ('of its own kind' and unique) must be ascertained as a matter of fact by reference to those laws and customs of Yi-Martuwarra people in managing the Martuwarra. The *sui generis* nature of Martuwarra native title rights and interests regarding common property and co-guardianship of the River requires an independent entity such as a 'statutory authority' which is consistent with *Wunan* Law, common law or statutory rights in relation to water justice. The Martuwarra Council is confident First Law rights and interests can co-exist with common law rights and interests, and that neither need to be extinguished as a result.

The Martuwarra Fitzroy River Council advocates management of Martuwarra must be embedded in a 'Statutory Body', with investment and standing to ensure sustainable water development approach to be conducted in good faith to promote Free Prior and Informed Consent decision making to implement recommendations to protect the Aboriginal Cultural

and National Heritage Listed Fitzroy River. The National Reserve Systems [91], alongside the Commonwealth policy on Bio-regional Frameworks until 2030, make it timely to consider investing in the Shire of Derby West Kimberley to broker the establishment of a Regional Bio-cultural governance model to unite Indigenous leaders, communities, and nations whose representations would add value to the Bio-Regional governance inclusive of diverse stakeholders [92]. This would enable a cooperative regional governance model, informed decision-making, to manage and evaluate development projects which are innovative, entrepreneurial, and create win-win for local people, Martuwarra, the region, nation and globally. Thackway & Cresswell [93] agree bioregional frameworks support the management and regeneration of bioregions which are large, geographically distinct areas of land with common characteristics such as climate, ecological features and plant and animal communities, managed more recently, as national reserves [91], and need to be extended to watersheds.

As Chair of the Martuwarra Fitzroy River Council, Poelina has brokered the coming together of our 'Coalition of Hope': bound by their collective wisdom, multidisciplinary scientists, and legal colleagues, guided by senior Indigenous knowledge holders, are contributing to a deeper understanding and transformation of complex systems of climate, water, procedural and distributive justice [54]. Multi-disciplinary collaborations with numerous researchers and legal scholars have generated a body of peer-reviewed evidence to demonstrate that benefits can result from investing into natural assets that shape our world physically, culturally and spiritually: reciprocity, respectful relationships through dialogue and goodwill, love and happiness, a healthy environment, society and culture, a sharing of local Indigenous knowledge, known as Indigenous science, as well as the potential for sustainable industries, have emerged as both research processes and results within those collaborations [54].

6. Implications for current and future laws, research, education, policy and better practice

The amended Western Australian Aboriginal Cultural Heritage Act (WACHA 2021) [94] came into operation on 1st July 2023, and was repealed in August 2023, reinstating the Aboriginal Heritage Act 1972. While the WACHA 2021 restricted and possibly prevented judicial review of decisions relating to Aboriginal Cultural Heritage, and highlighted the potential risk of political influence from the Minister for Indigenous Affairs having exclusive responsibility for Indigenous heritage decisions, the 1972 laws are even more inadequate and have permitted the destruction of cultural heritage across the state for decades, including the Juukan caves [10]. Following the repeal of WACHA 2021, some amendments have been proposed to the 1972 Act, however they are still highly discriminatory, as the Bill allows the Premier to remove the rights of Indigenous peoples to be heard by the tribunal in the context of an appeal. The Act is also in breach of the International Convention on the Elimination of All Forms of Racial Discrimination [95, 96].

These disingenuous acts of government do not reflect the national spirit of reconciliation and peace-making. Conversely, these acts promote invasive warlike occupation of our lands and waters, further perpetuating the inhumane treatment of Aboriginal people in Western Australia.

Rather than extending the mechanisms of partnership building, both the now repealed WACHA (2021), and the 1972 Aboriginal Cultural Heritage Act, also highlight the potential risk of political influence from the Minister for Indigenous Affairs having exclusive responsibility for Indigenous heritage decisions. In a submission to the United Nations, Poelina identified that the imposition of absolute Ministerial power is antithetical to historical Indigenous authority that is recognised by the High Court [97]. Dortch, Poelina, Thomson and Muir highlight the reasons why the Western Australian Aboriginal Cultural Heritage Bill will not prevent

another destructive event, and demonstrate that government laws, policies and decision-making processes are not reasonable [31]. The intent must be to prevent this type of destruction of *world culture* being repeated: never ever again [20]. Similarly, the recent submission of the WA government to change the Land Administration Act to enable diversification and certainty to government and the multinational companies will further perpetuate the dispossession of our lands and widen the gap of our disadvantage: it is time for Just Development on Just Terms [30, 98].

These processes have further revealed the continued contemporary practices of colonisation, ecocide, and genocide. The term ecocide is the nexus between ecological destruction and genocide [99]. The victims of ecocide include humans and the environment itself, as canvassed in Poelina's submission to the United Nations which reflects on the 'lawful awful laws', which facilitate the wilful destruction of our sacred sites, lands and living waters and foreshadow the impending harm to our environment [94].

The sacrifice of destroying everything we love and know is often couched in the language of 'trade off', as if there is an equal cost and benefit sharing arrangement. However, it is almost exclusively Indigenous people and future generations of all humans and non-human species who bear the cost of this 'trade-off' while governments and private industry benefit in very narrowly defined terms. Indigenous Australians are coming with a gift of customary law and spirituality to share with fellow Australians and other global citizens to build this ethic of care from within [100]. There are fundamental concerns regarding government development ethics, laws and outcomes that benefit external investor interests above local historical landowners.

Ecocide has a particularly genocidal impact for Indigenous people who depend on Country for their survival, and their cultural and spiritual health, and wellbeing. The consequences of the destruction of essential life-supporting ecosystems are a real and imminent risk for Indigenous people, such as Yi-Martuwarra people. Our position is based on the global research conducted by Professor Damien Short who makes a clear case the 'Politics of Economics' should not come at the cost of genocide and ecocide of the Fitzroy River Catchment and its people [101].

Climate change impacts are already happening due to its geographic location and vulnerable environment. From an Indigenous perspective, the climate change space and discussions are currently highly dominated by Western science and politics. Unfortunately, the progress in understanding Indigenous culture and cultural needs has not advanced to a point where socio-ecological knowledge and primacy in ontological theory or rationale have been injected into the debate. Now more than ever, it is time to listen to the voices and wisdom of Indigenous people for the paradigm shift.

Changes to knowledge and understanding of sustainable lifeways and livelihoods require participation in practice and observation of transformation, essential components to Indigenous knowledge systems when applied to cultural landscape connection and continuation. The issues of climate change, national adaptations and resource management need to have a space to consider and discuss the impacts to cultural identity and to the integrity of cultural landscapes for Indigenous people. Effective adaptation planning requires access to the best available knowledge, whatever its source. In the face of climate change, where risks and impacts remain uncertain and unpredictable, Nobel Prize winner Elanor Ostrom's groundbreaking work remains at the forefront of climate science: the need to listen and act on the wisdom of Indigenous peoples who have managed the 'commons for the greater common good of humanity' and not for the multinational companies, is ever present. As Ostrom argues, there is a growing need for an expansion of ideology that supports policies and actions which in turn foster the co-production of new knowledge sets [102].

For instance, the *Danjoo Koorliny Walking Together* project is a bold, long-term, large-scale, Aboriginal-led systems change project to help heal and reconcile all of us, in Western Australia, the rest of Australia, and around the world. There is an emphasis on walking together as Aboriginal and non-Aboriginal people to co-create a better future for all. The first milestone on this road is 2029 (200 years of colonisation in Perth), and Noongar Wadjuk Boodja leaders believe the project will go far beyond WA's bicentenary. As founding leader Dr Noel Nannup OAM said, 'our focus is on 2029 at this stage. However, we have the potential to go way beyond that because this is about being a person—a human being' [103]. As Indigenous leaders, we want to showcase our resilience, entrepreneurship, and citizenship as we move forward in reconciling settlement and the 'walking together' between Indigenous and non-Indigenous people in Western Australia leading up to this recognition in 2029.

Through collaborating with Yi-Martuwarra people, artists, researchers and legal scholars gain a better understanding and respect of First Law regarding the customary rights of nature, particularly the right for ancestral beings, as vital living rivers, to live and flow. If we as global citizens are motivated to sustain our own survival, then we are reliant on valuing Indigenous knowledge and better practices underpinned by Indigenous science. As colonised Indigenous people we know Indigenous science can humanise the impacts of environmental harm and help in planetary well-being. This can only happen if we all agree that precautionary principles, such as free, prior and informed consent decision-making (Articles 10, 11.2, 19, 28, 29.2 of the United Nations Declaration on the Rights of Indigenous Peoples, 9), and a moral and ethical framework are co-designed by all of us through a spirit of goodwill and good faith to heal people, heal climate, and heal the planet [104].

We believe that when collaborative paths cross, and through the storying that occurs, multiple interpersonal potentialities of relatedness are created: this in turn contributes to the emergence of a complex network of social and professional relations, which make visible the past and present realities of Indigenous people to the broader society [1, 105]. In these times of poor governance and partisan politics [106], economic and social well-being is reliant on the cost benefit of networking, incorporating diverse and complementary disciplinary approaches involving Elders, academics and practitioners, we are confident in the Dream we are sending out, we are mobilising a Coalition of Hope!

7. Conclusion: Decolonising the indigenous way, and co-designing hope

As our storying methodology has demonstrated over many years through numerous films, articles, submissions, and interventions, there are multiple opportunities through wellbeing economies in culture, science, heritage and conservation [86], that are grounded in our deep relationship with the River and our connection to each other and the environment. As Indigenous people living in this region of Australia, we are reframing development policy towards an earth-centred bio-regional governance approach. We are exploring new ways of doing business by asserting our shared Indigenous human rights by collectively and creatively engaging governments and other stakeholders. Yi-Martuwarra people have genuine interest in creating local jobs in responsible land management activities and practices such as environmental restoration, cultural tourism, education and ethical pastoral and agricultural industries.

If we are to co-exist in a pluriverse of action and transformation on the basis that we are dealing with planetary issues which require diverse knowledges and solutions, dialogic action must be the starting point [107]. Dialogic action includes cooperation, unity, free, prior and informed consent decision-making, and collective wisdom: all useful methods for generating genuine collaboration to engage Indigenous people in partnership with the broader

community, so they can receive advice and information about the risks and benefits of proposed developments to their wellbeing [108]. Furthermore, dialogic action demonstrates a collaborative process for generating an international network of trans-disciplinary science, legal, and social research scholars and practitioners.

The Martuwarra Fitzroy River Council continues to work with legal scholars and researchers to come together to give voice to shared ambitions for justice and a sustainable future. Yi-Martuwarra people are building partnerships and coalitions with individuals, government and non-government organisations and nations who aspire to a just and equitable future, and are committed to 'Rethinking the Future of Northern Australia Regions', as advocated through the Regional Research Report [109]. A future that is not driven by capitalist, consumerist values in the quest for ever-increasing monetary wealth, that is concentrated by the few, at the expense of the many. This can be realised through place-based regional governance, co-operation, reciprocity and social connections which are intrinsically connected to nature and all that it provides and sustains, in a Bio-Regional Framework [93].

First Law are the statutes, the codes of conduct which held diverse Yi-Martuwarra nations united in peace, harmony and balance for thousands of years. First Law is grounded in Indigenous philosophy and ontology, a collective worldview underpinned by the values and ethics of reciprocity, sharing, ceremony and trade [73]. The Elders who guide the leadership and knowledge sharing of the Martuwarra Fitzroy River Council continue to hold these customary law practices spiritually in these modern times.

In 2023 Yi-Martuwarra people remain concerned about development options proposed by industry and government. The Western Australian government's planning and implementation of the Fitzroy River Catchment Management Plan and of the Fitzroy River Catchment Water Allocation Plan hold little promise for serving either local or national interests when considered holistically, as they risk perpetuating adverse social, cultural, and ecological legacies.

Indigenous custodians have solutions for planetary well-being. According to the UN Decade on Ecosystem Restoration [110], these solutions include preventing, halting and reversing the degradation of ecosystems worldwide. We believe it is time to redefine science, justice and equity and create peace with Indigenous peoples in the Martuwarra Fitzroy River Catchment, as discussed in the IPBES podcast 'Wake up the Snake' [111].

This requires a focus towards investing in the Martuwarra Fitzroy River 'Commons' so we ensure that the saying '*Always Was, Always Will Be Aboriginal Land!*' really is true, and not just used by governments as tokenistic rhetoric. An earth-centred governance approach appreciates and respects life and fosters climate and multi-species justice [34]. The path to true reconciliation begins with forming genuine empathetic and truthful relationships between all parties and by demonstrating the recognition of First Law, our spirituality, Indigenous Science, knowledges, and customary practices as the basis on which to learn and act with virtue, as the basis for goodwill and good intent for all. Otherwise, we as humans, will not be able to sustain life in co-existence and harmony with our amazing planet Mother Earth!

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As authors with collective wisdom and lived experiences through our love and ethics of care, we acknowledge Martuwarra as the lead author and giver of all life and living waters. We acknowledge the ancestors from the beginning of time through to now in this modern time, facing foreseeable harm, and stand united with one mind and one voice as good stewards and custodians of Martuwarra Country and our non-human kin. We send the Dream out for the Martuwarra Fitzroy River Watershed, a living ancestral serpent being, to continue to have the right to life, to live and flow.

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