

## LAWYERS AND VOICE

Our NAIDOC Week series last week received a great response. Many loved Jeanine Leane's *Native Grasses* poem.

Lawyers spoke honestly of the richness of their pro bono 'test' case experiences, with Noel Magee summing it up:

'It was the right thing to do'.

Artist Lyn Hovey emailed her portrait of Kevin Buzzacott and kindly allowed us to include it here.



*Image 1: Portrait of Kevin Buzzacott<sup>1</sup>*

Lyn told us she, "did a black pencil drawing of him sitting out the back of the Arabunna Centre at Marree. He talked nonstop so his face was really mobile. ... I was worried that the painting would be misinterpreted as Aboriginal people being thought of as part of flora and fauna, so the attached sign was exhibited with it."

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<sup>1</sup> Lyn Hovey, 2009, Kevin Buzzacott. Reproduced with kind permission from the artist.

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Kevin Buzzacott, Arabunna elder and indigenous activist, (Uncle Kev to some) was accused of theft of Commonwealth property for reclaiming the sacred totems of Emu and Kangaroo from the Australian coat of arms on 27 January 2002. He was found guilty of stealing the coat of arms from a pillar on Old Parliament House. In his defence, Kevin asserted that he had reclaimed the symbols to protect his people's ancient lore and cultural obligations from further abuse. Kevin was arrested in a manner that contravened the recommendations arising out of the royal commission into black deaths in custody. His defence case which was based on the legal facts of invasion, colonization and genocide was not addressed at all. How can the custodian "steal" what Arabunna law says he must protect, that which has been appropriated from his people?

*Image 2: Sign attached to exhibited painting, Kevin Buzzacott<sup>2</sup>*

In today's NewsFlash, writer and artist Shaun Tan has allowed us to circulate - for one month only - his wonderful story *Bears with Lawyers* that may serve as a reminder to those lawyers who recall:

‘We had no choice... We are sworn to uphold justice’.

Kellehers Australia prides itself on remembering Justice<sup>3</sup>. We have thousands of like-minded colleagues in Australia, throughout the LawAsia region and globally. We must never be silenced. We must never silence ourselves. We must not allow ourselves to be bought or threatened, no matter how terrifying, no matter the cost. We must be brave. Justice depends on it.

Shaun Tan tells a dramatic tale of ‘Bear clients’ - inscrutable and unyielding - staunch in their rights under ‘Bear law’. It tells of their fate - along with the fate of their lawyers.

In his blog post, *Commentary on Tales from the Inner City*, Tan says the Bears are:

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<sup>2</sup> Lyn Hovey, reproduced with permission via email communication with Dr Leonie Kelleher 10 July 2021.

<sup>3</sup> The team named its in-house dachshund – ‘Justice’.

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“Trying to tell us something about our own successes and failures as a species, the meaning of our dreams and our true place in the world, albeit unclearly.”<sup>4</sup>

He also writes of Australia’s colonial history and the laws entrenched by it:

“Patterns of Australian colonial history, particularly ... the way ‘enshrined’ legislation so easily collapses to the pressures of commercial interests and ulterior political motives. It’s always interesting to see how law can be an instrument of extreme prejudice and partiality, while claiming to be otherwise.”<sup>5</sup>

Not an Indigenous man, Tan corresponded with Kellehers over email where he said:

“I’m mixed race and know a little about being regarded as an outsider in the place where I grew up... . I don’t think the Bears are necessarily Indigenous either (although they could be). ...

With these kinds of stories, I’m less interested in symbolism than parallels, so really [it’s] a question of whether a tale reminds us of any similar situation in the real world or feels truthful. ...

I think part of the inspiration for this particular story was certainly Indigenous legal issues, land rights especially, and also the problem of ignored legal systems in post-colonial countries. I was also influenced by ... reading Australian and American history. In particular, ‘Bury My Heart at Wounded Knee’ by Dee Brown, 1970, about the history of broken treaties in the US, a harrowing history that puts much of contemporary America in perspective, a land of deeply broken promises.”<sup>6</sup>

We asked him how the Bears chose their lawyers:

*Again, I’ve never thought about these stories in a literal way. But I think it would rather be the case that legal activists sought out the bears, in the same way that lawyers and activists fight for those who cannot speak, whether due to cultural, educational or other differences, including species differences. I’m always impressed by those people who not only seek to solve existing problems, but go a step further and find problems that may have previously gone unnoticed or been silenced.*

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<sup>4</sup> Shaun Tan, *Commentary on ‘Tales From The Inner City’*, July 2018 [Accessed: 12 July 2021] <<https://www.shauntan.net/tfic-notes>>.

<sup>5</sup> Ibid.

<sup>6</sup> Shaun Tan and Dr Kelleher’s email exchange 8 July 2021.

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*Of course, bears and cattle can't seek legal representation by themselves, something I think human culture takes enormous unfair advantage of. I mean, imagine if they could? What a different kind of world we would be living in - and no doubt a more sustainable, broad-minded one...<sup>7</sup>*

Why are some lawyers 'sworn to uphold justice' but others do not?

*I guess that's a question for each lawyer, as well as their definitions of words like 'sworn', 'uphold' and 'justice'.*

*We are all fallible, we all have noble ideals and fall short of them for various reasons: power, money, convenience, indifference, security, compromise, self-delusion. I'm interested in what it takes for people to do the right thing even when that is very uncomfortable, or even holds them at a disadvantage, for example, helping bears to sue humans. In some ways that's the best of human nature, being able to put justice ahead of self-interest, or rather, seeing a greater advantage for everyone, expanding the definition of self-interest to include society at large, maybe even the whole biosphere, if that's at all possible.<sup>8</sup>*

So, let's end our NAIDOC week 'dreamings' by reading *Bears with Lawyers* - for the next month only. You can access the PDF version [HERE](#). After that, if you have Shaun Tan's truly beautiful book, *Tales From The Inner City*<sup>9</sup>, expect to read it over and over.

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7 July 2021

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<sup>7</sup> Shaun Tan and Dr Kelleher's email exchange 8 July 2021.

<sup>8</sup> Ibid.

<sup>9</sup> Shaun Tan, *Tales from the Inner City*, Allen & Unwin, September 2018, <<https://allenandunwin.com/browse/books/childrens/Tales-from-the-Inner-City-Shaun-Tan-9781760523534>>.

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497 Swan Street, Burnley, 3121, Victoria, Australia

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### Bears with lawyers.

It was as simple and terrible as that.

For the first time in a very long while, longer than anyone could remember, or wanted to remember, the bears were able to speak through legal representatives: men and women in black gowns who studied Ursine and held aloft the hefty paperwork that allowed their clients to walk freely through the city without being shot. And walk they did, right past armed police and animal-control officers, past bewildered motorists and pedestrians, workers and shoppers, right into our great halls of justice.

Humankind was being sued, it turned out. A class action of epic proportions: *Ursidae vs Homo sapiens*.

That wasn't the worst of it.

Human Law is not the only legal system on the planet, it turned out. There are as many systems as there are species, the lawyers for the bears explained to an incredulous room, under which all animals are recognised

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as legal entities within a cosmic hierarchy. Human Law isn't even very high on this hierarchy (apparently we are just below Walrus Law) and Bear Law actually takes precedence in most cases. The fact that we didn't know any of this only seemed to strengthen the bears' case at the expense of our own.

Shaken? Yes, but hardly worried, and we are not ones to flinch. We had the best legal team that money could buy and immediately launched our broadside. *We do not recognise so-called Bear Law! No such nonsense has ever existed! You have nothing to show us!*

And so the bears showed us.

Sure enough, there it was as plain as day, in all the places we never bothered to look: on the tailfins of freshwater trout, under the bark of trees, in the creased silt of riverbeds, on the wing-scale of moths and butterflies, in the cursive coastlines of entire continents. Moss, sand, dew, the arrangement of seeds in a berry, pollen, bacteria, everything. Put a single slice of any rock under the right light and it is all there, literally written in stone. It was humbling, beautiful, indisputable and horrifying. It was all those things. Especially for a legal team that had spent their entire working life in a city, who knew nothing more than the contents of human filing cabinets and libraries. Which were only ever written by humans, it turned out. And meant very little to the rest of the world, it turned out.

That wasn't the worst of it.

Lawyers for the bears now presented us with all the translated paperwork we had requested, stacks of it in huge boxes, boxes that filled



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shipping containers, shipping containers that sat on the back of trucks, trucks lined up in convoy, as far as the eye could see. The city's traffic ground to a halt as they backed one by one into the streets of our brightest legal firms, every fluorescent light and mahogany veneer trembling. If that sight was not demoralising enough, reading any fraction of the material, a case against humankind gathered over some ten thousand years, was an exercise in abject despair. *Theft. Pillage. Unlawful Occupation. Deportation. Slavery. Murder. Torture. Genocide.* Not to mention all the crimes we'd never even heard of, things like *Spiritual Exclusion, Groaking* and *Ungungunurumunre*.

'For the hungriest of all animals,' said the bears in their typically abstruse legal verse, 'the only thing left to eat is the truth.' As if to prove their point, none of our lawyers could view the supporting library of video evidence without losing their lunch.

We countersued, appealed, sought injunctions, mined every technicality and loophole, hiring and firing our own lawyers like there was no tomorrow. We were trumped each time, the bears always sitting so silent and resolute in the upper gallery. How we came to detest their calm, round shapes and sad black eyes. The extent to which we loathed their lawyers we could not even begin to express. Who were these people? They turned our every argument against us, each time presenting some precedent of Bear Law as old and unbreakable as time, dragging various bits of primeval forest into the courtroom. Again and again they exposed the shallowness of every Human Law as presumption, ignorance and hubris.



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That wasn't the worst of it.

Deep in our hearts we knew they were right. Even as we fought our defence with such intellectual ferocity, as if to convince ourselves more than our opponents of a truth mired in self-contradiction, we knew the end was coming. It was time to reach a settlement. We called in every favour and came up with a figure that made our eyes water and our mouths dry, a figure too staggering to ever make public.

'Your money is meaningless to us,' said the bears. 'You grasp economics with the same clawless paws you use for fumbling justice.'

And, once again, the bears showed us.

There they were, God help us, the Ledgers of the Earth, written in clouds and glaciers and sediments, tallied in the colours of the sun and the moon as light passed through the millennial sap of every living thing, and we looked upon it all with dread. Ours was not the only fiscal system in the world, it turned out. And worse, our debt was severe beyond reckoning. And worse than worse, all the capital we had accrued throughout history was a collective figment of the human imagination: every asset, stock and dollar. We owned nothing. The bears asked us to relinquish our hold on all that never belonged to us in the first place.

Well, this we simply could not do.

So we shot the bears.

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All perfectly legal, it turned out, thanks to a bill passed in the dead of night. We took care of their lawyers too, in a manner we are not at liberty to divulge. But we did ask them, before they went, ‘Why on earth did you do it? How could you, yourselves human beings, with homes and families and communities, represent those bears, speak for them, support litigation against your own species?’

‘We had no choice,’ they said. ‘We are sworn to uphold justice.’

Oh, please. Humans always have a choice: is that not what makes us unique? And is silence not a form of peace? We’ll never understand why it is so difficult for some people to accept the hard truth of the world. Why they fight, even when they know they cannot win.

And so, finally, finally, finally, things went back to normal.

Until now.

Until now, when the whole sorry and sordid experience with those damned bears comes flooding back. Blood is leaching from every face in the boardroom, and we can already hear the sound of document trucks reversing into streets. A fetid cloud descends over the city, the sickening stench of endless torment and persecution.

‘The cattle are here,’ a terrified receptionist quavers over the intercom, ‘with lawyers.’

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