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'MAGIC AND MEDICINE'

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IS MEDICINE THE LAW?

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My title alludes to the book which John Cawte, a transcultural psychiatrist at the University of New South Wales, published in 1974. By affirming that 'medicine is the law', Cawte took a distinctive position among the students of Aboriginal society, yet they have largely ignored him. He would perhaps see in this a symptom of the territoriality which he deplores in anthropology (pp. xliii, 237). But I wish to examine his thesis not only because of its originality but because events since 1974 have given it a topical importance which its author could not have foreseen. More particularly, Aboriginal customary law is attracting strong interest after long neglect.

On 9 February, 1977, the Commonwealth Attorney-General referred to the Australian Law Reform Commission the question 'whether it would be desirable to apply either in whole or in part Aboriginal customary law to Aborigines, either generally or in particular areas or to those living in tribal areas only'. I understand that the Commission will complete its inquiries in the next two or three years. South Australia is also investigating the recognition of customary law, and in the Northern Territory several laws have been amended to enable traditional arrangements to be followed. New South Wales has a Select Committee on Aborigines the terms of reference of which are broad enough for legal questions to be raised. Quite apart from these signs of interest, there has been a limited inclusion of customary law in land law by the Aboriginal Land Rights (Northern Territory) Act 1976, a Commonwealth statute which applies only in the Territory. This effect is also aimed at by a bill now before the South Australian House of Assembly (No. 131 of 1978). The steps taken everywhere in Australia to protect the so-called 'sacred sites' are further examples of the tendency to heed Aboriginal customary law.

The thesis that medicine is the law has for a corollary that medicine men are the jurists of Aboriginal society. An inquirer into customary law will therefore seek out 'clever men' or 'native doctors' as his chief or only source of information. The effect of recognizing customary law will be to accept the concepts and practices of medicine men as defining the social regime for ordinary Aborigines. But Cawte believes the clever men or native doctor to be a dying breed (pp. 35, 44, 65, 203). The implication can only be that customary law, together with its practitioners, is on the way out, though it would scarcely follow that Aborigines can be saved from their limbo only by 'the vigorous and integrated application of modern medicine and justice' (p. xxiv). No great acumen is needed to see where all this is leading: it will be futile to consider recognizing customary law if the role of medicine men and the destructive effects of white civilization are as Cawte supposes.

Clearly it is important to ascertain as exactly as possible what Cawte understands the nature and relationship of medicine and law to be. The first part of my paper will be devoted to this necessary clarification of his thesis. Also it is important to investigate the extent to which his conception of the role of medicine men is supported by other writers on the subject. The second part of my paper will be given over to this. Finally, Cawte's book contributes to the running debate on the nature of the Aboriginal body politic. I shall attempt to assess the state of this argument in the third part of my paper.
Cawte recognizes that the medicine, law and religion of a modern society do not correspond closely to the medicine, law and religion of a primitive society, and he sees this lack of fit as a source of much trouble and difficulty for Aborigines. But medicine and law can be defined.

Medicine is concerned to alleviate, cure and prevent suffering, to preserve health and to correct environmental conditions conducive to illness. Law consists of rules of conduct which are enforced by a controlling authority, and it includes divine as well as human commandments (pp. xvii-xviii). These two institutions - medicine and law - function in the care and control, respectively, of the members of society.

Cawte puts so much emphasis on control that one suspects him of identifying law with criminal law. Perhaps this is only to be expected from a psychiatrist. Thus we read that native doctors, who double as legal practitioners, are 'involved in the control of antisocial behaviour' (p.32). Because these specialists 'are aligned against members who deviate, they cannot represent distressed individuals in quite the way that modern physicians and lawyers may be hired to befriend their clients and defend their interests' (p. xxiii). A society which functions effectively is preoccupied with controlling its members (p. xxI). Law, like medicine and religion, is an institution evolved by man to manage suffering (p. xv). The second half of the book is devoted to individuals who were brought to the attention of modern medicine and law by their large deviation from the normal (p. xiv).

But it is as evident that Cawte considers himself to be writing about the Aboriginal equivalent of our category of law, as it is clear that he is heavily predisposed to examine law only as it affects the sort of person who gets digested in the maws of psychiatry. Had Cawte taken notice of the many areas of law in which psychiatrists are unlikely to be called upon as expert witnesses he would have seen that law in our society is far from limited to the task of controlling abnormal elements. It has to do also with the adjustment of conflicting interests, with the introduction of certainty to human relationships and with the implementation of wishes which people may have for the future course of events. That law provides remedies, rights and powers to act as well as control and punish, is naturally overlooked in a psychiatric approach, since this has an inherent bias to the identification of law with criminal law. Unfortunately the same narrowness afflicts other approaches, too, and so it is that we find Schapera writing in opposition to Malinowski that 'the essential characteristic of 'law' is socially approved use of force' (1957: 154) and Hoebel giving his working definition of a social norm as legal 'if its neglect or infraction is regularly met, in threat or in fact, by the application of physical force by an individual or group possessing the socially recognized privilege of so acting' (1954: 28).

The more realistic appreciation of the nature of law for which I am pleading does not rule out the integrated study of medicine, law and religion of which Cawte is a proponent. Maine himself thought that early societies did not separate religion from law or law from morality but showed them intermingled and intertwined (1917: 9), and it is a commonplace of anthropology that many peoples explain illness or injury as resulting from malice or from the misconduct of the sufferer or his near kin. But a narrow or unbalanced conception of such a category as law will hamstring multidisciplinary inquiry before it can even get to its feet and will sabotage schemes for the recognition of customary law.

But there is another difficulty with Cawte's approach. His thesis is that medicine is the law, yet the definitions to which I referred do not bear out his contention of identity, and it is evident that he is shifting
about from one position to another. There are at least three of them.

First, Cawte asserts an identity: modern medicine and law have a common source; primitive medicine and law are a synthesis, an amalgam, and it is doubtful that they can be studied separately; the native doctor's philosophy is that medicine is the law and that the law is medicine (pp. xxi, xxii). But secondly, his definitions suggest that they may perfectly well be distinguished and that it is rather a matter of complementarity in function, medicine having to do with care and law with control (p. xxi). These are apparently two aspects of the management of suffering (p. xv). And finally it seems that the two 'professions' are practised by the same men, the native doctors, clever fellows or men of high degree (pp. xxi, 23, 26, 37).

Although these positions can be distinguished, as I have done, it might be suggested that the second and third at any rate are consistent with each other and that what Cawte is wanting to say is that in societies with little specialization distinct but complementary activities are carried out by the same persons. But the first position cannot be reconciled with the other two, for to say that a Jack-of-all-trades does carpentry as well as bricklaying is not to say that carpentry is bricklaying.

There is a limit, however, to what can be achieved by conceptual clarification, and it does not seem that one consistent line can be disentangled from Cawte's theoretical statements. We have seen that he is putting forward at least two theses, the more interesting and ambitious of which is that conveyed by the title of his book. It is clear that much depends on his handling of what he calls 'the raw material of anthropology' (p. xiii), and it will be useful to look at this to see whether it bears out at least one of his theses.

In the book's third chapter, which is meant as a description of 'the Walbiri medico-legal system', four ways are distinguished in which Walbiri doctors interpret and manipulate sickness and social crises. The first involves devil animals which enter the victim's body, apparently of their own will, to cause sickness, madness or death. Doctors can counteract the ill effects. The second involves poison sticks which are sung into the victim's body in order to make him die. Once again doctors can counteract the effects, but a complication is that they may have been responsible for the intrusion taking place. This is because the incantation may be a private act by an individual who bears the victim a grudge or a judicial act by doctors who are punishing the victim for his transgressions. Walbiri doctors deny that they are ever privately motivated to sing someone, and it may be presumed that they will not counteract judicially motivated singing. The third involves the spiritual alter ego which each Walbiri carries within himself and which will make him sick if he trespasses upon sacred things. Such an illness is regarded as thoroughly deserved, and the doctor who diagnoses it will not try to treat it. The fourth involves executioners who are directed by the elders in council to carry out sentences imposed upon offenders. It appears that a privately motivated use of this role would be improper, but there is a suggestion that in the past a doctor might take on the guise of an executioner for his own purposes.

It seems clear that each of the four can be an interpretation, after the event, of a misfortune which has already occurred or that it can, either through suggestion or by actual performance, bring about a misfortune. Cawte characterizes two of the four as legal and two as medical interpretations (or causes) of sickness and death. The legal methods are those involving executioners or a spiritual alter ego, and the medical methods are those involving poison sticks or devil animals. But this characterization, though making some sense in the light of the Walbiri data, has awkward consequences for the larger
theoretical contentions which Cawte is wanting to sustain.

The supposed identity of medicine and law breaks down if there are distinctly legal and distinctly medical methods. An early passage in the book has it that "the synthesis of medicine and the law in Aboriginal society is evident from the extent of the common ground shared by the procedures for preserving health and the procedures for controlling social behaviour" (p. xxi), but how extensive is this 'common ground'? Devil animals and privately motivated singings and executions fall outside the field of social control, and this shows that health-preserving procedures, to a considerable extent, do not overlap behaviour-controlling procedures. There is thus a medical area separate from the legal and a legal area separate from the medical.

What of the less interesting and ambitious thesis that in these relatively undifferentiated societies distinct functions are carried out by the same persons? This, too, fares badly. Cawte distinguishes between private and judicial motives for singings and executions, yet the procedures appear to be unaffected by the motives and so it is clear that Cawte's medico-legal practitioner, the clever fellow or native doctor, is to some extent at least relying on techniques which are not his exclusive property. And it seems clear that the elders who direct the judicial executions are not all doctors, for there are relatively few of the latter (p. 41) and no new ones are being trained (p. 44). If there is a distinction between being an elder and being a doctor, so that it is possible to be the one but not the other, then it is evident that some members of the council of elders cannot be likened to medical men at all. So far as judicial singings and executions are concerned, it looks very much as though the doctor qua doctor is no more than an instrument of a decision-making body. There is thus nothing in Cawte's account of the Walbiri 'medico-legal system' to suggest that medicine and law are in the hands of the same men. Some men practise both 'professions', but others practise only one of them. This unsurprising conclusion is not only a far off cry from what Cawte would have liked to establish but will have a familiar ring for everyone who knows Aboriginal societies at first hand or through the literature.

But if this conclusion is accepted as following from Cawte's material, what becomes of his political recommendations? We have seen that he regards medicine and law as identical or as practised by the same body of men and that he believes these men to be dying out. The consequences are serious: 'Aborigines lose their ability to adapt when they lose their social integration - of which the traditional practitioner was the pivotal figure and tangible symbol' (p. 204). That is why 'only the vigorous and integral application of modern medicine and justice can now redeem them...The liability of medicine and the law in primitive society has shifted to medicine and the law of the modern state' (p. xxiv). Hence a social experiment by Cawte and his associates among Aborigines in the far west of New South Wales in which a modern doctor has taken over the responsibilities supposedly discharged by native doctors and has become 'a nucleus for social integration' (p. 204).

Now, to the extent that these recommendations depend on assumptions about the traditional legal role of native doctors, they lose their force when the assumptions are shown to be mistaken or exaggerated. The recommendations may, of course, be defensible on other grounds.

The closing section of Cawte's third chapter is entitled 'Data in Search of a Theory'. It might be suggested that, in spite of having overextended his conceptual and theoretical resources in attempting to account for his data about native doctors, he has nonetheless put up some interesting ideas on their role, which is still poorly understood, and that these deserve to be examined for their bearing on the literature.
It is Cawte's contention that a native doctor is called upon in situations which ordinary people cannot manage on their own or in which they are in doubt about the right course of action. These include cases of serious illness in which malign influence in suspected; and also social disturbances. The latter are usually accompanied by allegations of sorcery (pp. 31-2). Sickness, in particular, enables the native doctor to exercise his medico-legal function, for the patient's dependency in combination with the doctor's power makes for a relationship in which the former submits and the latter dominates. Thus the doctor can and does demand social conformity as the price of good health. He is able to take advantage of actual or threatened misfortune to the same effect. This synthesis of care and control has, of course, been lost in modern society, but there is, apparently, a growing number of doctors and lawyers who feel that the ancient integration should once again be achieved (p. xxii). Cawte evidently experiences this feeling himself.

So many writers have contributed views or data on this subject that only a few can be discussed here. It is clear from the literature, however, that much remains to be known about the men variously known as native doctors, clever fellows, white magicians, medicine men and men of high degree, but many questions concerning them are unlikely ever to be cleared up because of the changes which overcame Aborigines after white settlement.

Elkin's book on Aboriginal Men of High Degree provides an obvious starting point. First published in 1945 and brought out in a second edition in 1977, it is, apart from Cawte's book, the only comprehensive treatment of the subject. That Elkin has a high opinion of the importance of native doctors - and also of their talents and integrity - is clear from every part of his book, but his emphasis throughout falls unmistakably on their medical and paranormal significance. The first paragraph of the Introduction to the first edition strikes what will remain the book's dominant note:

The term medicine-man as applied to Aboriginal Australia is used in a wide sense. Medicine-men are leeches, in that they use objective means for the curing of illnesses and wounds. They are magical practitioners, for they cure some sicknesses by magical rituals and spells. In many parts they are sorcerers as well; they know how to, and may, insert evil magic, extract 'human fat', or cause the soul to leave the victim's body, bringing about sickness and death. And finally, they also possess, in many cases, occult powers: they can commune with the dead; they see spirits fly through the air, and do the same themselves; they go up to the sky; they practise telepathy and mass hypnotism; and they gain knowledge by psychical means of what occurs at a distance. Such are the claims and beliefs. They therefore partake of the character of witches, clairvoyants, mediums and psychic experts (1977: xx). The same note is kept in the Introduction to the second edition, where it is noted that:

a significant change has been occurring recently in the attitudes of some welfare and health agencies, official and non-official, towards medicine-men. Where this is so, they are no longer ignored as men without knowledge nor brushed aside as impostors. On the contrary, their age-old 'professional' contribution to the well-being of their people is recognized, and their co-operation in official health services is asked for and is given, though somewhat
tentatively on both sides (1977: xvii).

But Elkin does allow a place in the native doctor's repertoire for what Cavte would see as legal activities. In particular, doctors keep themselves well-informed about what other people are doing or failing to do, and thus are able to explain illness and injury as resulting from sin, and they keep track also of attitudes between groups, so that they can divine the outsiders responsible for deaths in their own group (1977: 11). Elkin devotes three or four pages to these inquests, in which he credits the native doctor with the twin roles of detective and coroner (1977: 49-52).

Elkin's recognition of the doctor's legal role leads him neither to identify medicine with law nor to ascribe to medicine men a monopoly of legal practice. On the whole, however, Elkin shows so little interest in law that he cannot really be looked to for a check on the suggested extra-medical aspects of the native doctor's position in society. The word 'law' does not rate an entry in the index to Aboriginal Men of High Degree, and scarcely any attention is paid to it in his well-known text on The Australian Aborigines: How to Understand Them. Two of his students, Ronald and Catherine Berndt, have a chapter entitled 'Law and Order' in their very large book on The World of the First Australians, but they do not suggest any legal significance for the native doctor outside the inquests in which he discharges Elkin's detective and coroner roles. Ronald Berndt's paper on 'Law and Order in Aboriginal Australia', which came out in the Elkin festschrift, makes only the barest mention of native doctors.

Elkin and the Berndts do not, of course, think systematically about Aboriginal social life, and Cavte would be justified in saying that their failure to develop the admitted duality of medicine and law in the native doctor's role leaves his argument untouched. Cavte might even find support for his position in another anthropologist, the German writer Lommel, who worked with the Unambil in the general area of Kalumburu, a Kimberley mission to which Cavte devotes his fourth chapter. Unfortunately Cavte does not mention Lommel's book, even though about half of it concerns medicine men.

This is how Lommel begins his account of medicine men:
The medicine man is, among Aborigines, the centre of the community. No matter what the size of a group, it is formed around one or more medicine men.
An Aboriginal group should not be looked upon as a sum of individuals, but rather as a collective organism the limbs of which consist of individuals. Man cannot live without such an organism, for he would lose every hold he has on life and would perish.
The medicine man is the centre, the brain and the soul of this organism. He is, so to speak, the regulator of the collective soul, and it is his function to settle, to ward off and to cure all grievances, deviations, disturbances and sicknesses which afflict this collective soul (1952: 40).

This is much stronger than anything to be found in Elkin, and it expresses the essence of Cavte's argument. Unlike Cavte, Elkin has read Lommel, but he ignores the latter's assessment of the native doctor's position in society just as he ignores Cavte's argument about the native doctor's legal significance. Similarly, the Berndts pay no attention to Lommel in their 'Law and Order' chapter or in the 'Magic and Sorcery' chapter which immediately precedes it. These omissions show up a disturbing feature of much of the Aboriginal literature: the failure to ask for, and to disentangle, the points at issue in any inquiry. It can come as no surprise that so little progress
is made in solving problems.

The only other writer to whom I wish to refer in this section is Warner. The two chapters he devotes to magic and medicine in his A Black Civilization contain a wealth of case material which helps to demonstrate the significance of the native doctor's sinister counterpart, the sorcerer. We have seen already that Cavte, in discussing his Walbiri material, distinguished privately from judicially motivated singings and executions, and that he credited doctors - whom he tended to think of as judicial in motivation - with the capacity to diagnose and to treat the victims. It might be wondered whether the sorcerer (the alleged privately motivated maker of harmful magic) is as devoid of legal significance as Cavte seems to think. It might even be hypothesized that one man's doctor is another's sorcerer. Warner's Murngin material throws light on these problems.

The Murngin distinguish the black magic of the sorcerer from the white magic of the doctor or healer, and they see the latter, in large part, as a reaction to the former: Warner speaks of 'a kind of warfare' between them, and he says that 'the power of the black magician only reverses that of the white' (1937: 193, 243). Unfortunately Warner does not, so far as I can discover, give the Murngin terms for these forms of magic and their practitioners, so the reader is left in doubt about the explicitness with which the Aborigines themselves conceive these distinctions. He does say, however, that there is little if any difference in personality between the sorcerer or doctor, on the one hand, and the ordinary man, on the other (1937: 197, 210).

But it appears that the two 'professions' have their own paths of entry: for black magicians, training by a black magician who is a close kinsman; for white magicians, selection by spirit children who become familiars (1937: 197-8, 210). Warner is a little unclear about the doctor's power to kill. His account of inquests suggests that the officiating doctor will not only identify the guilty men but try to kill them by magical operations (1937: 211), but on the very next page he implies that only a few magicians are both black and white. Perhaps the explanation is that the latter reference to black magic is to the sort of harmful practice which one learns from a near relative while the former reference is to a power of execution (Cawte might say judicial power) which goes together with the power to conduct inquests.

These details show that it would be exaggerated to see one man's doctor as another's sorcerer, though in some instances this might be justified. But the details which Warner gives of the actual operations of sorcerers show clearly that these men are providing remedies for wrongs, including wrongs suffered by men other than themselves (see Warner 1937: 199-206, 223-7).

Thus we find black magic being practised against a man who had clubbed the sorcerer on an earlier occasion; against a woman who had broken her promise of a gift to the sorcerer's client; against a man in revenge for the killing of the sister's daughter's son (kutara) of the sorcerer's client; and against a man who was cuckoldling the sorcerer's client. It is clear, then, that someone who has suffered a wrong - or what he believes to be such - and who is unable or unwilling to take direct action against the wrongdoer may seek redress through a black magician. The latter's action may seem arbitrary, in the sense that he does not seem to investigate the issues in dispute, but it is no different on this score from the actions undertaken by doctors after inquests at which they have identified the men supposedly guilty of bringing about death.

Not only is there no good reason for denying the sorcerer a legal role while allowing one to the doctor as Cawte would, but to deny it would be to run counter to Warner's statement that 'a black magician is not looked upon by all men as fearsome: to those of his own group he is a constant source of
strength, since they seek his aid in repaying a wrong done to them by another group' (1937: 193). Compare this with what he says about white magicians: 'A good doctor can always find out who has stolen the soul of a man murdered by magic...He then informs the victim's clansmen...the kinsmen ask him to try to kill the spirits of the sorcerers' (1937: 211). If native doctors help bring about social conformity, as Cawte suggests, by such practices as diagnosing a misfortune as resulting from misconduct, then surely sorcerers do the same by providing remedies for the victims of misfortune.

Although this is further evidence that medicine men share a legal role with other men, it should not be misunderstood to mean that law has both its feet in the paranormal or supernatural. Warner, who seems little interested in the subject, does not say so, and his implicit view is indicated by his index entry for 'Law', which refers to just one page from the chapters on magic and medicine but to the whole of the chapters on kinship and local organization. His account of kinship roles and relationships makes it clear that Aborigines will often attribute responsibility and take remedial action without any resort to magical means.

It might be maintained, however, that Aboriginal customary law puts its weight on the foot it has in the paranormal or supernatural. This very weak version of Cawte's original position raises a question of the nature of the Aboriginal body politic to which I shall now turn.

III

Anthropologists have paid more attention to Aboriginal political structure than to the nature of Aboriginal law, but it cannot be said that there is more agreement on the one than on the other. Evidence about native doctors is crucial to them both, however, because of the importance which is so often ascribed to these men.

We have seen that Lommel makes the presence of a medicine man essential for group existence among the Umbral. It follows that a complete degeneration of life and social order will result if the group loses its medicine man or if he loses his powers, unless either a new medicine man can be found or the bereft group can join up with one which still has a leader (1952: 40). This is Cawte's opinion, too, except that he applies it to Aborigines throughout Australia. The social changes brought about by white settlement have thrown Aborigines into crisis by destroying the conditions which made native doctors possible, but Cawte, as we have seen, is hopeful that modern medico-legal practitioners (psychiatrists?) will take the place of the old in providing Aboriginal communities with the cement of integration. Elkin, who does not see the native doctors as important in the same way, used to think that they were in decline, but he now speaks of a 'resurgence', particularly in central Australia, and he even suggests that an inter-tribal conference of medicine men be held to examine such topics as the relevance of medicine men, their training and their place in the health services (1977: 172-7). Warner, too, would not make Aboriginal communities depend for survival on their doctors. He says that a sorcerer or black magician 'participates in the culture and in the daily round of affairs exactly like other men', and he describes the social personality of the healer or white magician as differing from that of the ordinary man 'only because of his additional magical powers; otherwise he participates in the culture much the same as anyone else. He marries, has children, hunts, fishes, fights, and enters the ceremonial life in a manner no different from that of other men' (1937: 197, 210).

The difference of opinion between those who play up and those who play down the extra-medical significance of native doctors has its parallel in
the state of anthropological opinion about politics and law. Elizabeth Eggleston, a legally trained writer, sums up the disagreement in these terms: Berndt and Elkin consider that there were definite legal institutions, composed of the elders, and accepted procedures by which they settled disputes...Hiatt and others do not agree that there were elders who exercised authority over an entire group...They view the procedures as more flexible and dependent largely on how many kin happen to be at hand to support each party in the dispute. But they also acknowledge that behaviour is governed by rules in each situation. Kinship responsibilities and expected behaviour in supporting a party to a dispute are prescribed by 'legal' rules (1976: 280).

Her summary does more justice to Ronald Berndt than to Hiatt. The former, who evidently has the whole of the Aboriginal Australia in mind, takes it to be a 'fact', which cannot be 'seriously disputed', that there were elders possessing and exercising authority, directing revenge expeditions and playing a decisive part in meetings to consider 'breaches of the peace' (1965: 167,177). If only Berndt had spoken like this about native doctors, then Cavte would have had just the support he needs to lend plausibility to his thesis of their legal predominance.

Hiatt, however, is sceptical of the possibility of generalization on such a scale. He sees his own findings from the Gidjingali of northern Arnhem Land as consistent with those of Meggitt from the Walbiri, but he thinks that it would probably be pointless to extrapolate from the Walbiri and Gidjingali to the rest of Australia because of the unlikelihood, at this late stage, of being able to test the generalization properly (1965: 147). Elizabeth Eggleston is, therefore, going too far in suggesting that, if Berndt is right as against Hiatt, it might be easier for an Aborigine to defend himself on a charge under Australian criminal law, because he could hold himself out as having acted as a tribal 'law man' in accordance with an alternative system of law (1976: 281). Hiatt is not making an Australia-wide generalization. His case against Berndt would be that statements which purport to hold good of Aborigines generally cannot be verified where they concern government or law, but that they may very well be falsified, and that Berndt's statements have, in fact, been falsified by the Gidjingali and Walbiri evidence.

But to falsify a wide generalization by adducing local instances contrary to it leaves open the possibility that some other local instances will conform to it. Thus Strehlow maintains that there were men of great authority in central Australia and that their leadership, though resting on the religious functions which they carried out, extended into ordinary life as well because of the deep fear inspired by their evident ability and willingness to destroy offenders (1970: 105-21). The lack of forceful and authoritative leadership beyond the religious sphere, which Meggitt (1962: 250 - 1) notes for the Walbiri, is, in Strehlow's eyes, a recent appearance produced by the deadly effects of white settlement (1970: 106-7).

Strehlow, unlike Lommel, develops his case in great detail, but he does not really provide the support which Cavte needs. First, it is not suggested that the 'ceremonial chiefs' were native doctors. This could point to a difference between the Aranda and the Unambal, or it could be that Strehlow has not described the Aranda leaders as fully as he might. Secondly, Strehlow insists that 'Marital disputes, arguments about spouses and personal quarrels of every kind between individuals were no concern of the Central Australian Aboriginal leaders anywhere; all private disputes had to be settled by the persons involved, sometimes with the assistance of willing kinsfolk'
(1970: 121). So even if it should turn out that the Aranda leaders, like their Unambal counterparts, were medicine men, it would still not be the case that they used to exercise the all-embracing legal competence required by Cawte's theory.

Strehlow, without perhaps realizing the significance of his own words, has here come to the crux of the matter. On one hand, a realm of stern authority in the hands of elders whose powers may be traced back to magic and ritual, a realm in which conformity and obedience are normal. On the other hand, a realm of self-help and private settlement by the persons immediately affected together with such of their near kin as feel disposed to intervene, a realm in which 'bystanders' will sometimes interfere if they feel that the parties to the dispute are 'going too far'.

My reading of the literature is that few writers deny the co-existence of these realms, but that disputes over their boundaries are endemic. Meggitt and Hiatt seem to think that the former realm is confined to the religious sphere, and that the order of dominance there established does not carry over into the extra-religious sphere. Strehlow insists that there is a considerable carry-over, but he admits, all the same, that parts of the extra-religious life enjoy freedom from an authority based on religion. Lommel goes so far as to represent the whole of collective life as controlled by medicine men. He seems alone in taking a position confirmatory of Cawte, but unfortunately he does not enter into details about the regulation of daily life by medicine men, and one is left suspecting that parts of life must escape their control.

There is no reason to suppose that a uniform pattern used to exist right across the continent. Only by the most astonishing coincidence would hundreds of communities, separated often by great distances, show the same organization of religious influence. Variation is to be expected quite independently of ecology or of social change or of any other variable. Once this is granted, and I do not see that it can very well be denied, then we can perhaps accept Lommel's Unambal, Strehlow's Aranda, Meggitt's Walbiri and Hiatt's Gidjingali as so many solutions to the common Australian problem of arriving at an accommodation between the demands of an apparently timeless plan of life - what one might term the 'ritual imperative' - and the chaotic spontaneity which seems perennially present in the ordinary life of the camp. Here the balance inclines in favour of the one, there in favour of the other, but there is no inherent rightness about any solution and they must all, in the long run, be prone to realignments of their internal boundaries.

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