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Keeping on the windy side of the law: the law of the beach

Abstract

Going to the beach in Australia is a way of getting to the borders of nowhere in the sense that no-one lives on the beach. It is under limited circumstances that one can say 'Come to the beach'; it is somewhere only to 'go'. Like death, one only goes. But unlike death, one comes back, repeatedly (cf Derrida 1979). The repetition and pleasure of death are at the centre of the beach experience. Once you step onto the sand you are in a space away from life, set away from the city, set away from normal civilisation. Yet the everyday follows you, for though this is the beach, it is still the world. It is a place of being and becoming. Whether you will come back would depend on how you 'hold acquaintance with the waves' (Twelfth Night I ii).

Keeping on the windy side of the law: the law of the beach¹

Annabelle Mooney

‘As the world’s only island continent, Australia has more beaches per head of population than any other large land mass’ (Spearritt 2003: 24).

Going to the beach in Australia is a way of getting to the borders of nowhere in the sense that no-one lives on the beach. It is under limited circumstances that one can say ‘Come to the beach’; it is somewhere only to ‘go’. Like death, one only goes. But unlike death, one comes back, repeatedly (cf Derrida 1979). The repetition and pleasure of death are at the centre of the beach experience. Once you step onto the sand you are in a space away from life, set away from the city, set away from normal civilisation. Yet the everyday follows you, for though this is the beach, it is still the world. It is a place of being and becoming. Whether you will come back would depend on how you ‘hold acquaintance with the waves’ (*Twelfth Night* I ii).

‘Australia *means* the beach’ (Fisk et al 1987: 53). In this paper I consider the beach as a legal space using two Australian illustrations. In order to differentiate between the different kinds of law, I refer to the formal law of legislation and the human lores that describe conventions on the beach. It is only by distinguishing them that it becomes possible to see their complementary and interdependent relationships.

Leadbeater writes, ‘[b]eaches are places where normal rules and authority do not apply. Beaches are ordered without being controlled. There is no one in charge. Beaches rely on self-organisation’ (2004: 28).

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While this is true, if we are to come to terms with the relationship between the law and the beach, more has to be said. I suggest that while formal law defines the space of the beach, it does so by recognising (implicitly) other legitimate claims, most notably those of the environment and the public. In this sense, the formal law of the beach, or more properly, the coastline, is (already) pluralistic. In this paper I want to focus on the idea that the order of the beach can be understood in relation to the pleasure principle (Eros) and the death drive (Thanatos) — forces that operate before and beyond the formal law, and about which law has always been distinctly uneasy. The formal law, and all other man-made norms, work to provide a space for Eros and Thanatos to operate.

I begin with my own little narrative. This is done in order to provide some context for this work, as it began on two particular beaches. It is also to respond to Lefebvre's concern that history be taken into account when talking about space (1991). I then turn to what I see as central in understanding beach space: the two instincts identified by Freud, the pleasure principle and the death drive. The formal law and the lores of the beach (to be explored later) both work to allow these instincts space and recognition.

In part three, I explore how the formal law recognises and constructs the space of the beach. The grand narrative of the formal law is concerned with prohibiting certain behaviours and actions in relation to the beach. But these prohibitions all implicitly recognise the importance of providing a space for the two instincts and indeed for the operation of lore. Thus legislation creates a natural space out of the wild and then leaves it alone. It is a process of recognition which creates borders around the sandy beach. In this sense, the formal law can be said to create the beach. But it is a space in which the law lies largely dormant. At the very least, it is not the primary code to which people orient themselves when on the beach.

I then sketch the zones of these two particular beaches, North and South (now City) Beach. In part five, I consider how behaviour is regulated on the beach, that is, how the beach itself is occupied. The

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way that beach-goers behave is in some sense regulated not so much by external powers but rather by the operation of lore. This is clear even in relation to apparently regulated subcultures, the prime example being surfers. The concept of lore recognises tradition, learning and teaching. But like all conventions in relation to the beach (whether law or lore), lore needs to be understood as primarily oriented towards the two instincts that drive us on and to the beach: Eros and Thanatos. Lore draws attention to the relationships between people which are negotiated and shift over time. To draw attention to the shifting relationships between people on the shifting material of the sand is the primary reason for teasing out this concept of lore.

At the outset, it is perhaps useful to say something about the relationship between law and lore. In a basic sense, laws are obligatory and attract specific kinds of sanctions. Lores, on the other hand, are more like legal conventions (particularly the constitutional kind). They are generally observed, are taught and learned largely through experience, and their breach summons not mechanisms of enforcement but confirms the existence of the culture. The relationship between beach law and beach lore differs from that between constitutional law and constitutional convention. In the latter case, the conventions support the law in the sense that they aid its function. In the former case, the law supports the lore.

1 Memories

First, I want to recount some of my own history of the beach in Australia, and with the beaches experienced as preparation for the thinking in this paper in particular. This is a short history, one that does not take into account all colonising forces, but only my own. I grew up in Wollongong, 80 kms south of Sydney, at a time when North and South Beach existed. Now, South Beach has made itself over as City Beach. Whether this is an attempt to speak from the South (by rewriting or re-siting it) or an escape from hierarchical geography is not clear. It does not concern my history, which, as a foreigner for the past 15 years, is both insider and outsider. In an attempt to cover some of my own blind spots, I spoke at

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length with three men while conducting my field work (or deep hanging out, as it is sometimes called).² Two of these have long histories with South Beach, Larry and Ken (S) and one with a long association with North Beach, Ken (N).³

The time during which I belonged on the beach was short. I certainly only belonged there with my mother and my siblings. I only ever belonged at South Beach and it never was completely mine. North Beach was, at times, at once exotic and forbidden. It was somewhere that I rarely went, let alone was comfortable.

At about the age of 13, the beach seemed to disown me. (I do not want to pretend that the beach itself has agency; I was my own evictor.) As much as the beach is a place of being and becoming, it was not a space in which I could be (tentatively) or (even with difficulty) become a woman.⁴

I embraced instead the orderliness of local pools. These baths (as we call them) carved out of rock or built with concrete to catch ocean water, were somewhere it was easy to be. Following painted lines on the blue bottom of the pool made sense. Taking a path up and down the pool which maximised the number of swimmers at peak times sometimes evolved spontaneously, was sometimes confirmed by notices tied to rusting bars, negotiated between people ad hoc, and at other times ignored by those not regulars. The pool regulars, however, were anything but regular. In this space, elderly women were regulars, strapping young men were only just regulars too, their natural talents doing nothing to distinguish them. Speed did not matter, nor did bikini lines (see Booth 2001: 17). In my pools, wrinkles, cellulite and missing body parts were all regular and ordinary; completely unremarkable. The order was appealing, the pools being regular containers of lines; in fact, they were civilised spaces (Spearritt 2003: 28).

It was the uncertainty of the beach, more than the ocean and surf, that I wanted to protect myself from. I was not then aware of the politics of body hair, only the inconvenience and embarrassment of it. It was not about the sand as such, but that it stood between my body and the water and was usually populated. In contrast to the beach, it was possible

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(and indeed desirable) to ask regulars about the rules of the pool. At least at certain times of the day, there was an order which newcomers were expected to respect.⁵

Current experiences of the beach for me are ambivalent. It should be stressed that in my mind, the beach is very different from the water, or the surf. The latter is for me only a physical threat because of once nearly drowning (in an entirely unremarkable and unnoticed way). The threat of the beach, for me, is also unremarkable and unnoticed, but it is psychological, physical and probably worth some intensive sessions on a therapist's couch.

2 Instincts

In that vein, I offer this. Formal law seeks to create a space that contains the beach but it cannot (or will not) occupy it; to do so would defeat two key human instincts. The formal law protects and regulates the margin that is the beach, by occupying only the margins of that margin. The role of the formal law here is analogous to that of the judiciary in relation to certain royal prerogatives and parliamentary privileges in the UK in areas of 'high policy'. The courts will recognise these powers, assert that they exist and map their limits. Within those limits, whether actions are acceptable or not, the courts refuse to comment. Some prerogatives and privileges are not justiciable.⁶

Certainly, the formal law of the everyday applies on the sand itself; murder is still murder on the beach or in the water. But how people behave on the beach generally is not the concern of formal law. It may intervene in some respects, most usually litter, alcohol consumption and anti-social behaviour, but this is done only to the extent of protecting a space for instinct to take over. Crucially, such legal control does not fully explain the particular ways people inhabit the beach. People on the beach do more than simply obey the law.⁷ As with all spaces, the beach has to be constructed to exist at all (Lefebvre 1991: 420). Yet this construction is more by way of recognition than regulation (in contrast to the way that the law regulates road traffic, for example).

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Leadbeater writes: 'Beaches are giant blank spaces, washed clean every day, on which all sorts of hopes are projected' (2004: 28). These hopes, it seems to me, are bound up in the very nature of life. I suggest that the purpose of the beach is twofold. It is related to the notion that the beach itself is always becoming and is a place of becoming. A hint is provided (perhaps paradoxically) in formal law. The *Illawarra Regional Environmental Plan No 1* (as at 10 December 2004) section 111(d), has as one of its objectives, 'providing opportunities for *passive and active* recreational activities associated with the coastal area'; passive and active.

This is the key to understanding the beach, the formal law which recognises the space and the lores which help account for behaviour on the beach. People are active and passive, subjects and objects. People do and are done to, positively and negatively always in relationship to each other and the environment. In recognition of such duality, Freud assumed 'the existence of only two basic instincts, *Eros* and *the destructive instinct*' or the death drive (1969: 18). Leadbeater implicitly agrees, noting that the beach 'is a place where the pleasure principle is given freer rein' (2004: 28) and yet recognising that the beach 'is still the best place on which to do nothing *en masse*' (2004: 30). It seems to me that people go to the beach to actively seek pleasure (by swimming, flirting and building sandcastles) or to passively do nothing. We might do it *en masse*, but that does not mean we do it together.

If we are to take it as a truth that knows no exception that everything living dies for internal reasons — becomes inorganic once again — then we shall be compelled to say that '*the aim of life is death*' and, looking backwards, that '*inanimate things existed before living ones*' (Freud 1995: 613).

If we accept the idea that life started in water and our distant ancestors dragged themselves ashore in an evolutionary bodysurf, then the fact that people should seek inanimacy on the beach is hardly surprising. Lying in the sun is one of the most rock-like states a human assumes. One is conscious but conscious of nothing at all.⁸ One turns, one sleeps, maybe one reads, the sound of waves on the shore

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approaching and receding, crashing and retreating, coming and going. The law of the land prohibits horses, dogs and other disturbing elements. It ensures people access to this space of ‘unconsolidated material’ in which one can regress.⁹ As Derrida reminds us, our death is only our own; in that sense at least it cannot be done *with* any other person.

Freud in *Beyond the Pleasure Principle* (2003) notes that while children delight in repetition, adults do not. Yet what else is the action of the waves but a constant *fort da*? The adult moves to a former state, that of the child who delights in repetition, who finds it soothing, and then to an even earlier state, inanimacy. Formal law also appears to find it soothing, evicting itself from the beach over and over.

The motivation of pleasure and the anticipation of death give space and reason to what people do on the beach. These instincts are nurtured and accompanied by lore. Indeed, the lores of the beach can be understood as shifting rules that facilitate and are informed by Eros and Thanatos. The formal law, on the other hand, approaches and withdraws repeatedly to allow a space for these instincts. The formal law thus supports lore, but it does not displace it. I return to a fuller consideration of lore presently.

3 A grand narrative

The formal law constructs and then protects the space of the beach for ‘public use’ and ‘public access’. It is worth providing some detail about what is recognised and what is protected, as this demonstrates the role of the formal law in recognising a space for the working out of Eros¹⁰ and Thanatos. Beyond the ‘passive and active’ descriptor just mentioned, the formal law that applies to beaches in the Wollongong area says little more about the particularities of public use.¹¹

As mentioned, the formal law does recognise the existence and the limits of the beach. (In this sense, the formal law can be said to create the beach.) This occurs through the use of a discourse of the ‘natural’. However, in order for something to be recognised, something has to exist. The actual stuff of the beach is under constant threat from the sea

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and from some human action. While Leadbeater writes, 'Beaches are giant blank spaces, washed clean every day ...' (2004: 28), they will not remain giant and blank without some vigilance; they will not remain at all in some cases. Buildings, apart from sandcastles, will not be washed away *every* day. Something has to be stabilised for the 'unconsolidated material' (*Coastal Protection Act 1979* (NSW)) of the shore to stay (as natural) as one could hope. This is done at least partly through a discourse of the natural on the one hand and a legal process of naturalisation on the other. In addition to this, the formal law describes the boundaries of beaches' blank spaces by mapping them (lines of law mapping lines on the land).

Nature is what the law tells us it is.¹² The 'aims' of the *State Environmental Planning Policy No 71 Coastal Protection* (Part 2, section 1)¹³ tells us what should be considered natural. The policy is predominantly a commitment to *protection*, implying that what is to be protected is pre-existing, and worthy of protection. Nevertheless, the list protects the coast (which obviously includes the beach) because of its economic and natural value, visual amenity and Aboriginal cultural heritage. It also protects public access to the same.

What is 'natural' can change over time. There is a threshold of time which appears to allow entrance into the sacred and protected space of the organic. Certainly the built environment is routinely seen as a threat to the 'natural'. However at some point the made, through the 'grace' of the formal law, attains the status of the given. Thus some buildings, cuttings into rocks¹⁴ and even plantations, are now protected and, in this sense, made natural (see the *Wollongong Local Environment Plan (1990)*).

Rocks and stones and trees also provide useful reference points in drawing lines that constitute the boundaries of the beach. The spelling out of these boundaries is akin to the way in which the courts will define the limits of a prerogative power. It is a form of mapping. The *Local Government Act 1993* (NSW) section 205 defines the area over which a local council has control with respect to the water, to more or less stable geography (rocks and stones) and with respect to the tides.¹⁵

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It is also possible to read the foreshore itself as natural text, a pre-existing map of itself (see Fisk et al 1987). It is striated space with respect to legislation, whereas the beach is smoother (Deleuze & Guattari 1988). The smooth space invites writing. Indeed, the natural has always been colonised and appropriated, whether by aesthetics, authenticity or the law. A brief sketch of North and South Beach is now in order.

4 The beaches

North Beach

North Beach has been civilised for as long as the law has permitted, South Beach only more recently.¹⁶ The structures (providing showers and changing rooms, a kiosk, and a home for the local Surf Life Saving Association or SLSA) at North Beach were built in the early part of the 20th century and are now protected ('naturalised' by the law). What is prohibited is, as at other beaches, signed, but only at the margins of the beach, that is, at the margin of the margin. 'North Beach' is where the North Beach surf lifesaving club is situated. Other more distant parts of the strand are identified by local knowledge about local geography.

In Wollongong, North Beach is the 'premier beach' (in the words of my informants). New South Wales is the 'premier state' (as the number-plates on cars tell us) meaning that it was first but implying that it is best; North Beach too is considered first and best, even by those who are allied to South Beach. It should be said that in acceding first position to North, the South dwellers are often only reporting local feeling. Ken (North) calls it the 'Crown in the beaches on the South Coast'. But even Larry (South) went as far as to say that North Beach 'gets a better clientele', as though the beaches were businesses in competition. Certainly they seem to participate in the discourse of brands.

North is likely to be the first beach that people entering the city see, because of the paths that the roads travel; the most civilised highway comes in from the north. Thus its premier position is at least partly to do with geography; the path of the road into Wollongong (built) is dictated by the mountains that rise at its northern end (natural). It is also an

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inviting civilised beach in terms of the built environment, with a hotel on its frontage and a well-established kiosk. It is populated not only by bathers, but also by people sitting on grass near the beach and drinking cappuccinos near the visible surf club building. The grass fringe of North Beach provides an area for spectators; for those who want to get sand in their souls, but not in their shorts. It is also the site of public events in Wollongong: breakfast on the beach¹⁷ and pole sitting,¹⁸ for charity, community and good will. For these events, the beach is not a central actor but merely backdrop. That it is a site for such activity, however, demonstrates the cultural significance of North Beach locally (and of beaches generally in Australia).

North Beach, like any beach, is difficult to map exactly in terms of which populations go to which places, as this changes according to who is present. However, it is possible to make a rough sketch. As mentioned, the presence of surf club buildings and other beach amenities appear to establish the ground zero of any particular identified and named beach. There is always slippage. There are no fences or concrete walls to stop the movement of people on the sand or in the water (as Leadbeater points out, 2004). The water also moves and with it the sand and eventually, as a consequence, the beach itself.

In an attempt to describe the geography of North Beach, the presence of different people orienting to natural and built features, I begin by travelling north where there is a zone of sand- and rock-filled waters generally known as Puckey's. While there are paths of access to the beach from the park that borders it, there is no apparent change of nature except for the grassing over of sand-dunes (for their protection and consolidation). This stretch of water is noted by informants to be particularly dangerous. Because of the relative lack of people on the northern stretch of North Beach, and the relative privacy because of the dunes, topless sunbathing is common in the area. Indeed, such removal of clothing tends to occur (unsurprisingly) on beaches which are, for whatever reason, not generally used by people (even the beaches designated as 'nudist' by the *Local Government Act*, no less, have this profile). This northern stretch tends not to be used by most people

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because it has no amenities (showers and the like), no surf lifesavers and comparatively poor access.

Moving south down the beach, surfers are often found entering the water. At the bottom end of Puckey's reserve, car parks make beach access easier for board riders. Naturally, the presence of surfers in any area depends on the waves and the break. It is required, however, that they stay out of the way of the flagged area which is reserved for swimmers. At North Beach, in practice, surfers are usually much further out than swimmers. Thus surfers negotiate a balance between the access provided by the built environment and the opportunities for surfing provided by the natural.

Just before the virtual enclosure of the flags, and close to direct road access, parking and refreshments, one finds those with a large measure of physical capital, and thus, in the environment of the premier beach, social and cultural capital. They tend to be young, and usually gather in groups. It appears that they visit the beach as much to socialise and tan (thus increasing physical capital) as to swim in the water. Their area extends back and south in an arc. Certainly these young people tend not to encroach on the flagged area which is often populated with families (close to the water to keep an eye on children) and visitors. Indeed, to place oneself in the area of the flags is to place oneself within the only official and protective gaze on the beach. Obviously, this is a child-like state of supervision and as a result is very 'uncool'.

At the back of the arc, towards the changing room facilities, one generally finds couples and locals. The southern end of the beach, past the flag area, is less densely occupied, mainly because of the rocky outcrops in the water that extend south in front of a small headland. However it is a quiet spot, with couples or locals usually sitting here. This end of the beach is also quite sheltered from the wind.

Behind the areas just north and south of flags are grass-covered areas. At the northern end is the surf club building, with the kiosk/restaurant just south of that. In recent years, the chip roll has come up in the world. Smoothies, fresh juices and foccacia have replaced cans of coke and potato cakes cooked in third rate oil.¹⁹ These grass areas, and

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the availability of food, have long been the two distinguishing features between North and South Beach (and most noted by informants). The sweep of grass was routinely referred to as the ‘amphitheatre’ of North Beach. Further, there is a walking and cycling path (or promenade) that runs the length of North Beach which is popular with walkers, runners, cyclists, roller-bladers and strollers (including push chairs; it was previously home to a rail track). At North Beach, it is possible to sit on the grass and watch the beach. There is no need to subject the self to salt and sand. On balance, it seems that North Beach appears, and is certainly spoken about, as a beach more geared to Eros than to Thanatos.

South Beach/City Beach

South Beach, as it used to be called, is altogether a different creature from North Beach. People who patronise this beach call it the only ‘real’ beach in the city (by which they seem to be referring to its less civilised appearance). A recent renaming and relocation of the surf club (along with a commercial venture — restaurant, kiosk and function centre — only permitted because of the surf club’s presence) have made the beach into a new ‘City Beach’. This identity is prominently and proudly proclaimed on maps and new signage at the beach itself. Concrete promenades have been put in place along with beautifully designed showers. Some of those who grew up on the beach are not entirely positive about the changes; indeed the old guard of the lifesaving regime objected strenuously to the relocation.²⁰

The re-naming has shifted the relative geographies of the beach. In compass terms, South Beach was never to the south of the city; in terms of compass points it is more properly east. It appears to have been named exactly in opposition to North Beach. Further, the shift to City Beach involved moving club house facilities further north along the beach. In temporal and stylistic terms, City Beach is more like North than South ever was. However those who are loyal to City Beach assert that North Beach patrons are a ‘bunch of wankers’.²¹ One member related that he used to be part of North Beach, ‘until he woke up to himself’.

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Affiliation to one of the two beaches (though obviously there are others) acts as an identity marker with currency in certain situations, largely when north and south collide.

At the northern end of South Beach one finds the surfers, as this is generally close to the break. At this end is also a sheltered area of the beach, with high natural stone walls leading eventually to rock pools and baths. The breadth of sand here is greater than the rest of the beach. There is a basin of sand with a high rock wall behind it. This rocky area extends out towards the water and around the base of a headland which separates the beach from the adjacent fishing harbour. It is in this basin where the young and hip are to be found. Like the 'cool' area at North Beach, this is away from families and the gaze of the lifesaver. They are not the same kind of 'cool' as North Beach, however. While McGregor (1997: 187–8) reads the iconic Australian beach film *Puberty Blues* as portraying a "class hostility" between middle-class Cronulla surfers and working-class visitors from Sydney's western suburbs, and focuses on the middle-class teenagers' it is difficult to ascertain whether the 'cool split' between North and City Beach is one of class. Certainly it may be one of locale as status is linked to identity claims to certain territories on the beach, and very possibly one of social groupings (related to such identity projects). But whether these can rightly be called 'class' is not clear. Perhaps it is enough to say that who is 'cool' at North is not necessarily at City.

South of the basin area, where the flags are now, the sandy part of the beach becomes a bit narrower and the rock walls give way to grassy dunes. This was always a popular stretch for families and locals. It is an area protected from the wind by the headland and with generally safe swimming water. At the back of the beach, towards the dunes, used to be the preserve of topless bathing. With the re-siting of the surf club and the increase in the number of people at the northern end of the beach, this seems to have disappeared. However it is impossible to know how much of this change in particular can be attributed to changing attitudes about the benefits derived from an all over tan. In any case, Ken (South) laments that their absence 'takes a bit of the fun out of it [being at the beach]'.

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City Beach still feels very much like a local beach rather than a tourist attraction; though that is probably nostalgia as it was my local beach for at least a decade. It should be said that City Beach is only a small section of a long strand line which reaches down to the steel works south of Wollongong City. One beachgoer (also a lifesaver) remarked that this backdrop made the beach more 'real', as the steelworks is what 'Wollongong is all about'. Real locals, that is, those who live within walking distance of any stretch of this beach, will usually take the shortest line between their front door and the waves (whether this is to North or South). Thus people are scattered up and down the length of this area. This is in direct contrast to North Beach: no-one lives close to the northern end of North, which is swampland and highway.

People who visit the two beaches do orient towards the same kinds of features; the flags, sheltered areas and amenities. The differences between the two beaches are also largely geographical. While City Beach now has a café too, it is not possible to see the water from the tables provided for cappuccinos. This is a source of much unhappiness for those involved in the development project (but who did not get to make final siting decisions). This area is lower than the tops of the sand dunes; hence the lack of visibility of the water itself. There are two reasons for this. One is the requirement of disabled access to the facility and the second is the requirement to stay behind a legislative zoning line.

Whether there is a difference between North and City depends on how questions are posed. Yet, everyone spoken to in the course of this work (whether informants, acquaintances or random beach people) recognised a difference between the two beaches and aligned themselves only with one. Indeed, this exclusive identification with either one or the other seems to be the primary feature describing the relationship between the two beaches.

5 Lore

I turn now to beach manners. It is tempting to conceive of the beach as regulated entirely by law. This would allow me a formal appeal against my eviction. What we mean by ‘law’, then, is crucial. From a semantic point of view, what ‘the law’ is, is a question of use.²² Moore writes that the ‘law’ is a ‘semantic morass’, urging that ‘Law and the social context in which it operates must be inspected together’ (1978: 55), thus suggesting that they nevertheless are distinct. Understanding beach manners requires not so much the articulation of a system (which while not essential, is suggested by an informal understanding of ‘law’), but rather an understanding of individuals and their relationships with each other and with the environment. As the environment changes (it is sand after all) so do these relationships. While acknowledging that some visions of the law are capable of this, it seems to me more important to focus on ways of knowing and being. I do not want to suggest that the two are mutually exclusive. It is rather a question of analytic emphasis.

Barth argues against the use of ‘culture’ for similar reasons.

Culture is used selectively for that which seems most salient to the outsider, namely difference. This use gives a truncated account of what others are thinking and doing. It does not represent their grounds for action, but only those grounds that are contrastive ... (1995: 65).

Barth focuses rather on ‘bodies of knowledge and different ways of knowing’ (1995: 66). He is not dismissing ‘culture’, but rather seeking a different emphasis. Moore, dealing with whether the rules and conventions of semi-autonomous social groups should be considered as ‘law’, notes, ‘... on the point of melding it all together as law, this is a question of what one is trying to emphasize for analysis’ (1978: 81).

The attention that lore gives to shifting knowledge, practice and, crucially, *relational* ways of structuring conduct, is more fitting to the smooth space of the beach, where people interact according to relationships, rather than on the basis of laws (pretty much however one might want to define these). The first person entering an empty beach and remaining there will be the orientation point for everyone

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who comes after. What it is possible to discern from others (presence of children, clothing, age, accessories, even style of bathing costume) will give the beachgoer some clues as to how to orient towards them. The flags too, which likewise shift, to the safest part of the beach for swimming, provide an important orientation point for beachgoers. In a place where people are nearly naked, there are still ample semiotic markers with which to work.

Lore is specific knowledge, traditional perhaps, that has to be handed down, through example and enculturation (to general and particular beaches) rather than through words. For example, somehow everyone knows that North Beach is the premier beach in Wollongong. Beach lore is more culture than regulation; it is embodied and thus closer to *habitus* and habit than to stipulation (Bourdieu 1979: 82).

Frustratingly, when I asked my informants about beach zones and etiquette, they had little to say. Any detail was elicited only through close and detailed questioning, usually in the form of leading questions. I asked Ken (S) for example about where topless bathers lay now that the surf club was directly behind their old ground. He was not sure. Surfers were clearly identifiable, and once prompted, the presence of families within the boundaries of the flags was also confirmed. This suggests that for my informants at least, knowledge about where groups locate on the beach and how they behave is a form of tacit knowledge (Polanyi 1958) or intuition (Benner & Tanner 1987). At the very least, it is something that these otherwise articulate men had difficulty describing. This perhaps confirms that lore is handed down through active example rather than spoken rules. Following Lefebvre's understanding that spaces have to be constructed, it seems to me that users of the beach make their own lore and their own space within the boundaries set by the formal law and the sea.

Conversely, when asked about surfers' behaviour *in the water*, my informants were readily able to identify rules. This extended to body surfers as well as board surfers. Larry counted them off on his fingers: 1) 'whoever's on the inside of a wave gets priority'; 2) 'when you're paddling out, don't paddle out through the middle of the break'; 3) 'be

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respectful of the beach'. He considered that there was a fourth, but could not bring it to mind.

Perhaps the need to lead my informants in specifics in relation to behaviour on the sand is simply related to the instability of zones based as they are on the presence of natural features (for example, waves), markers (flags), and the presence of other people. It may also be because as lifesavers they are more focused on what happens in the water. Indeed, my informants all volunteered detailed knowledge about the state of the surf on the days I met them, comparing current conditions with both unusual and normal circumstances. These relationships (with features and people) are negotiated in a manner which is largely silent and occurs over a sustained period of time. One does not ask others on a beach where one should sit in the way that one can ask in a pool where one should swim, or how to make the showers work. One may watch and learn, but this seems not to be done consciously.²³ Further, given Thanatos and Eros (and basic personal space), one is more likely to position oneself as far away from others as possible.

One can say that there are provisional zones on the beach, that is, places where people of similar subcultures habitually gather together (see Fisk et al 1987; these subcultures may have their own rules). As mentioned, these zones, in relation to North and South Beach, appear to be chosen according to the way in which the particular subculture constructs the beach. These zones may well shift, and when the beach is empty, they do not exist. The zones are exactly a function of people and the way they behave in relation to the environment and in relation to other people.

The zones I tentatively identified on North and South/City Beach, do not impose prescribed, predictable or consistent penalties if they are breached. Indeed, breaching zones may well lead to their alteration, temporarily or permanently.²⁴ Individuals may assert their claim to personal space (usually by moving away), but there is, for example, no penalty for entering the 'family zone' as a single person (apart from having a child kick sand in your face). The penalty lies in not belonging and the discomfort that arises from this (physical and psychological).²⁵

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Further, even to know that these zones exist requires an intimate or extended experience of the particular beach space. At the very least one has to be aware of the possible existence of such zones and the possible divisions of them (into surfers, swimmers and so on). Lores, like conventions, do not have a core of certainty and can be modified in the breach. There is 'no rule *requiring*' the interpersonal manners of beachgoers (Hart 1961: 9). *All* of the rules 'are produced within the field of action itself', unlike the *portion* in semi-autonomous social fields (Moore 1978: 63). The beach can thus be seen as a semi-autonomous social field in Moore's terms. 'Much legislation is piecemeal. And [it] only partially invades the ongoing arrangements' and, in fact, only from time to time (Moore 1978: 79).

The most important lore is not to camp too close to anyone else. This seems a clear example of facilitation of the death drive (more about this presently) and indeed, the pleasure principle. Obviously such removal is an issue of personal space. However personal space has a contextual reach. Women report needing less personal space than men, for example (Edney et al 1976). It also seems that the space required on the beach is far greater than one would require in other spaces, such as a shopping centre (or in the case that Edney and colleagues explored, an empty room). Indeed, I have come to see my own expulsion as more related to lacking a relationship with any of my own kind on the sand and being too scared to go it alone.

Formal laws against trespass are not suspended when no-one is present; in fact, this is perhaps when they are most required. Sacred sites do not become unsacred when the group that consecrated them are absent. In contrast, the surfer zone is not the surfer zone when the surfers are elsewhere. What defines the surfer zone is their presence. 'The lived-in-ness of space, its praxis in other words, cannot be realized graphically' or with a concept of zones (Buchanan 1994: 130). To speak of a patch of sand as owned or controlled by a particular group is only to generalise across time; an efficient shorthand. The example of surfers is perhaps the measure of whether zones are governed by rules or laws or something else precisely because they are the group most belonging

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to the beach. Without beaches, there are no surfers. If anyone belongs on the beach in Australia, if anyone can call it home, it is the surfer.

The use of 'lore' is attractive because of its link to learning and teaching. Note that the nominalisation of two converse verb meanings in one word (learn and teach, in this case) is not common in English (though it is in many other languages). Thus, lore suggests interactive relations. The pedagogic relationship is itself instructive as it is so often compared to a love relationship. This clearly connects with Eros. The notion of interaction also captures the importance of relations on the beach *vis a vis* other people rather than demarcated spaces. It is about interaction of little narratives, not about fitting into a larger social order (Lyotard 1984). The way swimmers avoid each other catching waves, the way surfers stay out of the swim zone, the way one should shake towels so as not to cover those nearby with sand, and the way topless bathers stay out of sight are all examples of such little narratives. They all orient principles not to a strict code but to shifting human and natural factors. That lore is about relationships, of learning and teaching, seems appropriate. The law is not about love, and not so much about its absence as its non-existence; even though the duties of care that it apparently entails are usually presumed.²⁶

Earlier I suggested that the death drive was one of the two reasons for going to the beach. People go to the beach to die in a variety of ways. However, individuals are compelled (and desire) to die in their own ways. The ultimate loss is intensely personal. 'What we are left with is the fact that the organism wishes to die only in its own fashion' (Freud 1995: 614). While the drive to die is significant, for an organism to die after 'its own fashion' seems to require either removal from others altogether or removal from others who are too dissimilar. In short, organisms wish to die in their own fashion and only *among* those of its own fashion. As one dies alone, one needs to know that one will be left alone. The look of being looked at, the gaze of the other, is an impediment to the state of quiescence desired. When one is seeking an earlier inanimate state, one does not want to be seen even by points of light (cf Lacan 1977: 95). The only light present should be that which falls on a

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person as it falls on a stone, that of the sun (and that this may eventually bring death to the person — through skin cancer — and not the stone, is an ironic poetry).²⁷

The distinction between ‘the two kinds of instinct ... [is] topographical’ (1995: 620). The distinction between how people nurture this instinct is also topographical. It only becomes a problem on a populated beach, occupied to such a density that one has to choose who to be among. It is a choice, but it is not an obligation. That people generally choose to respect zones (if they can be mapped at all) can be explained by their own desire to experience pleasure and death alone, and by respect for that desire in others.

6 Conclusion

It is clear to me now that if there is a force that evicted me from the beach, it exists only for me in respect of myself. It is exactly the gaze that Lacan speaks of. The other (of the self) seeing the self. The gaze on the material of the beach, on the sand, takes in a picture. It is for me a picture seen through the lens of my own everyday experience. Lacan writes about fishing in Brittany (expeditions he took as much for the danger as anything: ‘It was this risk, this danger that I loved to share’). During one such trip, he sees a sardine can in the water. His companion says, ‘You see that can? Do you see it? Well, it doesn’t see you!’ Lacan is made uncomfortable by this, only because it made him see himself. He realises that he ‘looked like nothing on earth’ (1997: 96). This may well be appropriate in a non-terrestrial environment, but Lacan is not amused, he ‘was rather out of place in the picture’ (1977: 96). ‘What determined me, at the most profound level, in the visible, is the gaze that is outside’ (1977: 106) simultaneously of the self and the other.

While beaches are generally spaces of civil inattention (in Goffman’s terms, 1963), that does not mean people do not see you or that you cease to see yourself (cf Edney et al 1976 on personal space). Being looked at is not always a desirable thing. When people are becoming rocks, returning to an earlier form, seeking out a shadow of their future

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end, they do not want to be looked at; they do not want to see themselves or have themselves seen, to be in or out of the picture.

The beach is a scene of repetition, creating and obscuring pleasure and death. While not a place of conversation by its nature, it prompts stories and recollections. These little narratives are as much about pleasure as pain, delight and danger.²⁸ Tales of sunburn, bodysurfing and bluebottle stings mix with vinegar and chip rolls, with driftwood and sardine cans. The borders are places where life and death are intimate, where the pleasure principle and its beyond are both in evidence. The formal laws which create the empty space of the beach, which allow it to exist, can be understood primarily as creating a space for Eros and Thanatos. The law of the land only puts its toes in the water and is constantly finding it cold.

Notes

- 1 I would like to thank Georgine Clarsen for valuable help early in this work.
- 2 I have found the phrase attested in Clifford James (1997), though came across it in a seminar with Catherine Kohler Riessman, of Boston College, MA.
- 3 Of course 'to ken' is to know by experience and thus related to lore.
- 4 In this sense, mine is absolutely a gendered perspective, but one which I expect is not altogether alien to men. That the beach disowned me, and ejected me into other bodies of water, undoubtedly says more about that woman I was becoming than the way the beach was being. We disowned each other, if it is possible to say that; it was certainly possible to do it and feel it.
- 5 I accept that this is not true of all pools. However some institutionalise their rules in the form of signs and lane ropes.
- 6 Of course the difference is that, even if not justiciable, these prerogatives and privileges are still 'laws'.
- 7 Just as in restaurants, for example, people do more than follow the formal law. In the case of restaurants, cultural scripts usually apply (see in particular Schank & Abelson 1977).

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- 8 Ecclesiastes 9:5: 'The living are conscious that they will die; but as for the dead, they are conscious of nothing at all.'
- 9 *The Coastal Protection Act 1979* regulates development in coastal areas. It also spells out what is required of coastal zone management plans (these plans are written by local councils). The Act thus helpfully defines 'beach':
 - 55A Definition of 'beach'
In this Part, **beach** means the area of unconsolidated material between the lowest limit of tidal or lake water level and the highest level reached by wave action.
- 10 Indeed, note the statutory protection of certain nudist beaches, *Local Government Act 1993* s633.
- 11 Certainly, there will be formal law dealing with marinas, boats and other water vehicles. But that is about the water and facilities provided for accessing it.
- 12 See for example the natural taxonomy of *The Local Government Act 1993* s5.
- 13 As of 12 March 2004.
- 14 Formerly to accommodate trains, especially for the transport of coal etc.
- 15 205 Land taken to be included in an area
 - (1) The land and water between high-water mark and low-water mark on the foreshores of an area is taken to be in the area.
 - (2) The land and water enclosed by:
 - (a) a straight line drawn between the low-water marks of consecutive headlands to any body of water on the foreshores of an area, and
 - (b) those foreshores, is taken to be in the area.
 - (3) Land on the boundary of an area is taken to be in the area if:
 - (a) it is reclaimed from tidal waters, or
 - (b) it is on the foreshores of the area and beyond low- water mark, and it is privately owned or has a structure erected on it.
- 16 It should be noted that this paper does not deal with indigenous peoples' relationship with the coastline. However see Huntsman (2001).
- 17 A charity event organised by a local radio station which provides celebrities serving breakfast on a grass area near North Beach.

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- 18 Involves people sitting in huts on the tops of poles (about the height of telephone poles) and being sponsored to raise money for charity.
- 19 For me returning after an absence, this was significant. It changed the tone of the beach. Suddenly, it was possible to be at the beach but not at the beach.
- 20 Larry, a life member of the South Beach Surf Life Saving club tells me that he had to threaten other members with physical eviction during one early meeting.
- 21 Conversation beachside with off duty lifesaver.
- 22 Obviously those who work closely with the law will have a wider understanding of what 'the law' is.
- 23 The codes of the water differ in this. It is entirely possible to learn to read the surf and my informants bemoan the fact that visitors do not ask about risks.
- 24 The relocation of South Beach to City can be seen as such a permanent alteration.
- 25 Obviously there may be disapproving glances. However for these to be effective, one has to be rather closer to the disapproving face than one usually is on North or South Beach.
- 26 Indeed, the way that formal law treats relationships is of relevance to the way in which the formal law constructs the beach. Both intervene only to construct a space (a beach, a marriage) or when something goes drastically wrong (breakdown, storm damage) to repair that space or at least return component parts to some kind of function.
- 27 The effect of the threat of sun cancer on beach manners has been significant. Indeed, one might see public health initiatives (in Australia, to Slip, Slop, Slap) as legal measures. They may somehow have origins in decisions of the Executive, but they are policy initiatives rather than proper instruments of formal law.
- 28 Just as Lacan takes to the fishing boat as he 'loved to share' the danger (1977: 95).

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