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Djadi – Dugarang

The Newsletter of the Indigenous Social Justice Association
Volume: 5 Issue:2
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Land Rights? … or … Land Wrongs?

A Non-Corporate View

Editorial

WELCOME to the second issue of Volume 5. In this Newsletter we will be looking at the subject of Land. The Traditional Lands of the Traditional Owners. Always Was, Always Will Be, Aboriginal Land. And Torres Strait Islander Land also. Land that was, and remains, Stolen. Like our Children, like our Wages, like our Culture. Everything Stolen.

Historically, and Culturally, Land has been viewed, used and abused differently by different Peoples in different times. The so-called Civilisations of Europe adopted a culture whereby Land became wealth to the individual who professed ownership of it. Land was just another commodity to be bought and sold, the end being to become even richer by the purchase or the use of it. Territorial wars were fought , and still continue to this day. The Falklands War between England and Argentina is but one example of this.

Land to those living in a more "primitive" culture either followed the European Way or shared the Land within their own Tribal groupings. Land was never to be individually owned but became as one with the individual and collectively with the Tribe or Nation. The Land was to be respected by all and shared by all, along with its relevant resources, by all. The only areas of recognition were the Sites for Men and Women's Business and those Sites sacred to both or either.

Australia's Indigenous Peoples lived the latter life style. War, for the purposes of obtaining Land from another Tribe or Nation was unknown. This was brought about by the single fact that coveting the Lands of others was Culturally inappropriate. Put simply, the Spirits of your Land are not mine. They must of course be respected but they have no bearing on my Culture or Spirituality. That can only be found on my Land. Land, regardless of which Tribe or Nation owned it, was also to be shared by others outside of the Tribe or Nation using that Land. For example, during use of the Trade Routes which criss-crossed Australia. From North to South, from East to West. Those using the Trade Routes who died were allowed to be buried with all due Custom and Respect of their own Lands. Children born were given the appropriate Cultural necessities also. The Lands were shared, not owned. These procedures were not, of course, unique to the mainland of Australia. Historically, the Torres Strait Islanders had an extensive Trade Route system.

Ownership of Land just was not an issue and sadly only became a destructive issue for the Cadigal/Eora People of the greater Dharrug Nation on 26 January, 1788. When Captain Phillip and his human cargo came ashore and raised the British flag on behalf of mad King George, then the rot, literally, set upon us.

The rest as they say, is History.

A History of Invasion and Genocide that continues to this day. "Oh, not the Black Armband View again," I hear someone sigh.

No my Friend, more of the White Blindfold View and another fine example of the Constructed Silences exampled in the previous Newsletter. This period of the Black and White Relationships has been termed 'The Culture Wars.' Windschuttle is currently the newest of those who feel the great need to rewrite the real Joint History. It matters not what they say, the Truth remains inviolate.

The first article comes from Henry Reynolds looking at the Windschuttle fabrication of History and especially that part dealing with the Ownership of Land by the Traditional Owners.

Other articles deal with the British atomic tests 50 years ago that were similar to the American tests up at Bikini Atoll, whereby the health and safety of the locals were criminally not fully considered. Noel Pearson considers the latest decisions of the High Court, including the disgraceful decision made against the Yorta Yorta Peoples. We have analysis of that decision also.

Tony Abbott harangues the Traditional Owners for not totally embracing Capitalism in their Culture.

We look also at the current fashion of Land negotiations being entered into outside of the High Court. Very much a case of 'damned if you do,

damned if you don't.' Ms. Jackie Huggins gives us her important view of the Native Title Act of 1993.

We revisit Noonkanbah in the Kimberley's and look at the issues of today. We 'walk' the Country reading Reports of current Land Rights struggles and compare and contraire what is happening here to what is occurring in Canada and the United States to the First Peoples Nations.

We also report on the ongoing struggles of the Torres Strait Islanders to continue to build upon the Mabo High Court decision.

All this and more, so let us proceed.

Killing off the case for terra nullius

THE AGE
August 23, 2003

THERE is no doubt about Keith Windschuttle's ambition. He seeks to bring the concept of terra nullius back to life. That is a central feature of The Fabrication of Aboriginal History. He tells us that the notions of the exclusive possession of territory and the defence of it either by law or force "were not part of the Aborigines' mental universe". In short, the Tasmanians "did not own the land". The concept of property was "not part of their culture".

Much follows from this assertion. The incoming Europeans were not taking land belonging to someone else. They introduced tenure to a place where none had previously existed. Aboriginal attacks on the settlers had nothing to do with resisting encroachments on their land because they had no sense of trespass.

In the absence of such motivation, they must have been spurred to violence by baser, more personal motives - by the desire for vengeance and for plunder. Therefore, the Tasmanians were not at war with the settlers. They were criminals - burglars and cut-throats – not warriors or patriots.

Much then turns on this question. Remove this building block and much of the argument in The Fabrication of Aboriginal History collapses. It is not possible, as some reviewers have wished, to cast doubt on Windschuttle's vision of terra nullius while leaving the rest untouched. The soundness of argument and evidence in this area are all-important.

He begins at a high level of generalisation. Unless it can be proved to the contrary, it must be assumed that hunters and gatherers have no sense of land ownership. It is a heroic claim, which flies in the face of 200 years of jurisprudence and at least 150 years of ethnography. Windschuttle provides no evidence, no references to ground this heroic proposition. We are expected to receive it as an axiom that is beyond argument. But it is not a good start. And things get worse.

The most powerful proposition we are presented with is that the Aborigines did not have a word for property. This argument has caught the public's eye and has been repeated numerous times in reviews. Clearly it has been seen to be a clincher - an argument of great discursive power.

But we should begin with Windschuttle's own words: "The Aborigines did not even have a word for it. None of the four vocabularies of Tasmanian Aboriginal language compiled in the 19th century, nor any of the lists of their phrases, sentences or songs, contained the word 'land'. Nor did they have words for 'own', 'possess' or 'property' or any of their derivatives."

The source for these claims is a series of appendices in the 1899 book, The Aborigines of Tasmania, by H. Ling Roth. Given the great significance of the linguistic evidence, it is remarkable that Windschuttle has apparently read nothing on Tasmanian Aboriginal linguistics published in the 20th century. But leaving that aside, two points should be made. We have no idea at all of what percentage of total Aboriginal vocabularies were ever recorded - particularly by the informants whose work is reprinted in Roth.

A modern authority has written: "Only limited and generally quite unreliable notes and materials, mostly word lists and some sentence materials, had been collected in the Tasmanian languages, from which only a superficial picture of them can be obtained. Those few short texts that are available are of dubious value, as they were compiled by Europeans, with, it seems, little real knowledge of the languages." Other scholars support this proposition. So while we know how many words were listed by European witnesses, we have no idea of how many were not.

N.J.B. Plomley, the doyen of Tasmanian Aboriginal scholarship, observed that "we are quite ignorant of the range of Aboriginal thought because so few topics were explored in conversation with them". All Windschuttle can legitimately say is that words for land do not appear in the vocabularies printed in Roth. That is a much-diminished claim.

But the most serious problem with the Windschuttle position is that he did not consult the most important contemporary work on Tasmanian languages - Plomley's 1976 book, A Word List of the Tasmanian Aboriginal Languages. The result of 26 years' research in Australia and Europe, it represents a benchmark in relevant scholarship - an authority that cannot lightly be dismissed. So how does Plomley's work help us to pursue the question of land ownership? At first sight, it would appear to support the Windschuttle position. There are no entries for "land",

"property" or "possess". But everything is not as it seems.

When Aborigines talk about land, they most commonly refer to "country". Hence we hear of "caring for country", "returning to country", "claiming country", "living on country". It was not unreasonable, then, for Plomley to categorise all words relating to land under the rubric of country. And it is there that all the words will be found - a page-and-a- half of them - 23 relating to country, three meaning "my country", six meaning "where is your country?".

Some of the entries are variations of a single word. But each one was collected separately. And they come from all over Tasmania - from the western, northern, north-eastern and south-eastern tribal groups. The record is even more geographically specific, with relevant words recorded at Port Sorell, Bruny Island, Cape Grim, West Point, Mount Cameron, Cape Portland, Ben Lomond and Oyster Bay. The majority were collected by George Augustus Robinson, who was the only person among the settlers who had even a slight grasp of the Tasmanian languages. But other words were contributed by Charles Robinson, Jorgen Jorgenson and Alexander McGeary.

In his commentary on the words relating to country, Plomley wrote: "Although the phrases 'my own country' and 'where is your country?' clearly refer to a tribal territory, it does not follow that all the words translated as 'country' do so. Many of them almost certainly have the meaning of tribal territory, but at least one may have the meaning of countryside."

Where does this leave Windschuttle's claim that the Aborigines had no words relating to territory or ownership or possession? Clearly it cannot be sustained. But was he simply unaware of Plomley's linguistic work? Was it just a case of not doing his homework? It does seem extraordinary that he was willing to rest such a critical argument on what was known at the end of the 19th century. Is it possible that he actually consulted the Word List but did not like what he saw? He listed nine other Plomley works in his bibliography. If one were to adopt Windschuttle's own view of things and employ his inimitable language, we would have to assume that this was one piece of information that he was "careful to keep from" his readers.

If the use of linguistic evidence leaves much to be desired, the treatment of the historical record is equally flawed. This is particularly so when Windschuttle comes to discuss the views about Aboriginal land ownership current among the colonists in the 19th century. In one sense his response is - and has to be - pre-determined. If you start from the a priori assumption that the hunter-gatherers have no sense of property, that they do not own the land and have nothing in their language to suggest otherwise, then contemporaries who thought differently must have been mistaken. In that situation one would know in advance that they were imposing their Eurocentric views on the indigenous people.

An alternative strategy is to deny that there is any evidence at all relating to the question. Windschuttle therefore insists, as he logically must, that there is no contemporary evidence that the Tasmanians had a sense of territory or property. The solution to the problem is simply to leave out evidence to the contrary. And yet there is an unbroken tradition in European writing from the 1820s to the present that has recognised Aboriginal land ownership.

Many witnesses are people whom Windschuttle himself quotes approvingly when other issues are concerned.

The question of land is also critical to an assessment of Windschuttle's interpretation of the Black War.

Assuming that the Tasmanians did not own the land, had no sense of property and traditionally knew nothing of trespass, the conflict itself could not have been about land. That being so, the Aborigines were not patriots, not even warriors. They were criminals engaged in murder, assault and theft. They were largely responsible for the violence and they brought their own fate on themselves. This may appear extreme, but it is a fair rendition of the Windschuttle thesis. Most of the actions of the Aborigines, he argues, "were nothing more than what would be recognised as crimes in any human culture, robbery, assault and murder".

Contemporary European witnesses who believed the Tasmanians were motivated by anything more elevated than the desire for plunder and revenge are either ignored in The Fabrication of Aboriginal History or dismissed with an insouciance that is breathtaking.

Windschuttle also turns a blind eye in the direction of any evidence that indicates that the Aborigines believed - and were motivated by the fact - that the Europeans had usurped their territory. He argues that although in the diaries of George Augustus Robinson (who was appointed superintendent of Aborigines in the 1830s) - the Aborigines "give plenty of explanations for their actions based on individual wrongs", such as being assaulted by whites or having their women stolen, there are "none about defending their country".

In fact, there are many in the Robinson papers. While reporting to the government in January 1832 about his first meeting with the remnants of the Big River and Oyster Bay tribes, he wrote: "The chiefs assigned as a reason for their outrages upon the white

inhabitants that they and their forefathers had been cruelly abused, that their country had been taken from them, their wives and daughters had been violated and taken away, and that they had experienced a multitude of wrongs from a variety of sources."

That this and other incidents do not appear in The Fabrication of Aboriginal History should occasion no surprise. They would complicate things and make it much harder to declare that in existing accounts of internecine conflicts between Aboriginal bands there is not even "one example of trespass provoking violence", and that the Tasmanians showed no evidence of anything that deserves the name of political skill.

Windschuttle is also keen to scotch any suggestion that the Tasmanians had any patriotic feelings. The fact that no one ever recorded a patriotic speech verbatim leads him to the truly extraordinary proposition that none was ever delivered.

"The reason for historians' inability to produce patriotic statements", he argues, is simple - "none were made". As only one or two settlers understood any of the Tasmanian languages, and only a few Aborigines spoke a little broken English, the absence of reporting from the "front" is scarcely surprising.

The Fabrication of Aboriginal History is a remarkable book. It is, without doubt, the most biased and cantankerous historical work to appear since the publication of G.W. Rusden's three-volume History of Australia in the 1880s. Even Rusden's attacks on his political opponents fail to match Windschuttle's vilification of the Tasmanian Aborigines. And vilification is not too strong a word. The concept of savagery has been reborn.

This is an edited extract of a chapter by Henry Reynolds from Whitewash: On Keith Windschuttle's Fabrication of Aboriginal History, edited by Robert Manne ($29.95, Black Inc.).

50 years ago, during the time of then Prime Minister Bob Menzies, the British were allowed to come to Australia so that they could test their atomic weapons on the Lands of the Pitjantjatjara, among others. This occurred on 15 October, 1953. The first atomic test happened in the Monte Bello Islands off the north-west coast of WA on 3 October, 1952. To the best of my knowledge, the Monte Bello Islands were vacant of human life. Not so the Traditional Lands surrounding the Maralinga tests.

To add insult to a deadly injury, the Federal Government now wishes to use the Lands as a nuclear waste dump. Will they never learn? ***ends***

50th anniversary of Australian atomic test

ABC AM [transcript]

Wednesday, 15 October , 2003
Reporter: Nance Haxton

LINDA MOTTRAM: Today marks the 50th anniversary of the first atomic test on the Australian mainland.

Totem 1 was a 10-kiloton atomic bomb, just five kilotons less than the bomb exploded at Hiroshima. It was detonated at Emu Junction, about 240 kilometres west of Coober Pedy, in South Australia's north.

Despite assurances from to the contrary from officials, Indigenous people living nearby were affected by the test, and now they're concerned about another issue amid proposals that a nuclear waste dump will be located on their land.

Nance Haxton reports.

(explosion)

NANCE HAXTON: The explosion at Emu Junction was part of Britain's weapons testing program, seen as crucial to the continuing defence of the Commonwealth.

ARCHIVED NEWS REPORT: The explosion lit the whole of the desert many times more brilliantly than the fiercest sunshine. It was only a question of waiting for the right weather, and particularly for a wind hat would carry the explosions' radioactivity further out into the desert where it would harm no one.

NANCE HAXTON: However, Eileen Kampakuta Brown was living on her traditional lands nearby when Totem 1 exploded. She says her people, the Anangu, received no forewarning. She remembers seeing a black mist, which spread over the country and killed members of her family. Mrs Brown is translated by her granddaughter, Karina Lester.

EILEEN KAMPAKUTA BROWN (translated): We noticed a very red, red colour in the sky in the west there, and we thought, hey. And it was that boom, that blast, and then that mushroom that we could see. That next morning when we all woke up, that was when we noticed sickness happening then.

Yami got up that morning and we saw, you know, red eyes, sore red eyes, real flemmy in the nose, coughs, bad coughs as well and so, we were starting to think maybe it was to do with that bomb.

That morning when we woke up was when we found out about Kelly's father who passed away. Day Two we lost Kelly's sister then. So Day Three was when we lost Kelly's mother.

NANCE HAXTON: Despite the damage done to the traditional peoples and those

assisting in the operation of the tests, at the time the man in charge was unapologetic.

The Director of Atomic Weapons Research in the UK, Sir William Penny.

ARCHIVAL EXCERPT WILLIAM PENNY: Proving tests are absolutely necessary. Tests could not be held in the United Kingdom because it is impossible there to find an area, even a few miles across, empty of houses, people and stock.

NANCE HAXTON: However, what they didn't realise was the extent of Aboriginal settlement on the vast amount of land that was affected by radiation.

The 1984 Royal Commission into the atomic testing program found that Totem 1 was detonated in wind conditions that produced unacceptable fallout.

The senior Aboriginal women of Coober Pedy, the Kupa Piti Kungka Tjuta, talk of continuing birth defects in their children and grandchildren since the explosion.

Eileen Brown says they are now determined to stop the low-level radioactive waste dump from being established on their traditional lands.

EILEEN KAMPAKUTA BROWN (translated): Maralinga killed a lot of our family, so back then we lost a lot of our family. This poison that's coming into our land now is something that's a little bit different. It didn't go off like Maralinga did. It might seep through and after big, heavy rain, rain might push down, push poison through. This might be water that we drink from, we might, you know, bathe ourselves with as well. So we don't know. That's our worry, is water, if it does seep through getting into our water systems, how it will affect us.

NANCE HAXTON: Fellow Kungka, Emily Watson, says they are fighting not only for themselves, but for all Australians, to stop history repeating itself.

EMILY WATSON: Not only our children, little black ones, we think about the white ones too 'cause they're all in one, and they want to live in this world in peace, not in poison.

LINDA MOTTRAM: Kungka woman, Emily Watson. Nance Haxton reporting.

Indigenous women protest against nuclear dump plan

ABC INDIGENOUS NEWS
Monday, September 29, 2003

SENIOR Aboriginal women in Coober Pedy say they believe a nuclear legacy, which began with atomic testing 50 years ago, will continue if a planned radioactive waste dump near Woomera, in South Australia's far north, goes ahead.

About 300 people, including a number of women with links to Maralinga, are gathering this week at the 10 Mile Creek bush camp in the state's far north.

Coordinator Nina Brown says it will be a forum for people to listen to the stories of elders, and learn valuable lessons from the past.

"It's really hard for these people who've been directly affected and have four or five generations now in 50 years, and they're seeing that legacy in their families," she said.

"It's really close, it's not the hypothetical opposition to a waste dump, look we've had it, we've seen it and it can't happen again."

A people who dread the day the nuclear cloud will sneak back

The Sydney Morning Herald
By Penelope Debelle
October 1, 2003

ONE of the more chilling images of the British atomic tests near Maralinga, South Australia, 50 years ago was of a young woman, Edie Milpuddie, found camped in a bomb crater where the rabbits, blinded by the blast, were easy to catch.

Milpuddie, who lived at Oak Valley, 120 kilometres from the test site, has just died, and her name cannot be spoken out loud.

Her grieving daughter, Sarah, was one of about 60 Aboriginal people who gathered near Coober Pedy yesterday for a three-day bush camp which linked the sins of Australia's atomic past with fear of a future that includes a new nuclear waste dump in outback South Australia.

"The poison is going to come back, like Maralinga - just sneak in," say a group of tribal women from Coober Pedy, who five years ago formed an anti-nuclear coalition called the Kupa Piti Kungka Tjuta. "They are going to do the same thing here."

The Kulini Kulini (Are You Listening?) bush camp united old tribal Aboriginals with young environmental activists. Under an open-sided tent at Ten Mile Creek, outside of Coober Pedy, female elders took turns at the microphone telling their stories of the nuclear past.

"We saw a cloud coming towards us, then we all got scared. We didn't know what it was," says Angelina Wonga who in 1953 was a teenager walking with her parents and their camels towards the outpost of Marla.

The radioactive black smoke left her mother and father coughing and covered in rashes and that night they both died.

It was a heavy burden for a young girl to bury her parents, and the memory of it yesterday made an old woman cry.

The arguments were emotional rather than scientific, but the lives of the traditional owners of this land are intertwined with nuclear history.

"We love our bush tucker, our kangaroo meat," said Eileen Kampakuta Brown.

"The poison gets into the food chain and makes everyone sick and we will all get affected."

The Australian Radiation Protection and Nuclear Safety Agency will hold public meetings later this year to hear complaints against the issuing of licences for a nuclear dump near Woomera.

Station owners, Aboriginal groups and the South Australian Government are pursuing legal action in the Federal Court.

The following Report again, in my view, clearly sets out the views of Noel Pearson relative to Land Rights for the Traditional Owners. Noel, in all the readings and hearings of his words that I have done, says nothing remotely to the effect that Land does not matter; that Land need not be returned to the rightful owners of the Lands. What was frustrating Noel, and many others, was the total destruction of our Communities by the absolute abuse of alcohol and drugs. The greatest enemy was and is the substantial unemployment within and without the Communities. Arising from the abuses and the breakdowns of Culture and Respect came the further horrors of domestic and sexual violence against women, children and the Elders. Correctly, Noel recognises that if positive circuit breakers are not introduced, then there will be too few to regain their Lands. Our Elders will be dead and our youth will be either also dead or gaoled. This result would most certainly not be to our best interests. the Land is immutable. Our People are not.

For some unfathomable reason, too many believe the spin-doctoring of howard, herron, ruddock and of course we must not forget tony abbott. These push the Big Lie that Noel has dropped Land Rights from the Social Justice Registry for the Indigenous Peoples of this Country. He hasn't. What Noel has done is merely prioritised the Battles to win the War. And more strength to him.

There are of course critics of what Noel is attempting, mostly in the methods being used. I have some agreement with that, and especially the involvement of the Beattie Government. There also arises the debate surrounding both Noel and his Brother, Gephardt, about their financial interests in the work being done. But to move on.

The original Native Title Act, 1993, was tough enough but at least it became possible to obtain Land Rights. Unfortunately, when howard changed the 10 Point Plan to the 7 Point Plan, any legal rights of the Traditional Owners became dormant. The 7 Point Plan was and remains a criminal act of Racism. The fact that Tasmanian Senator Brian Harradine and Father Frank Brennan supported this Plan, against the express wishes of our 'Leaders,' is an act that will bring shame upon them all of their lives. I find their stated reason of why they acted as they did to be offensive to the Indigenous Peoples and their supporters. They went along with the howard Plan because they feared 'a racist election.' Pardon? This is Black Humour indeed.
ends

High Court cruelling native title: Pearson

The Sydney Morning Herald
Debra Jopson
March 18 2003

THE Aboriginal leader and barrister Noel Pearson last night weighed into the High Court, accusing it of misinterpreting the Native Title Act in two recent decisions. Describing native title litigation as a battle for "leftover land", Mr Pearson said the present High Court judges did not understand their responsibility towards "belated and meagre land justice".

He said their predecessors in the original 1992 Mabo decision recognising native title had understood that responsibility. He noted that in December, the court had decided that the Yorta Yorta people who straddle the Murray River in NSW and Victoria "were not sufficiently Aboriginal to get one square metre of what was left over after the whites had taken all that they wanted".

Giving the Sir Ninian Stephen annual lecture at Newcastle University's law school, Mr Pearson said native title had been recognised in federal legislation to protect it "from arbitrary extinguishment by hostile governments". But the present court's "flawed and discriminatory conceptualisation of native title" and "egregious misinterpretation of fundamental provisions of the Native Title Act" meant the judges were "destroying the opportunity for native title to finally settle the outstanding question of indigenous land justice in Australia".

He and many others had believed that "all claims for native title that would be made under the framework of the new legislation would be adjudicated according to principles of the High Court's decision in Mabo and the body of common law of which it forms a part". But the relevance of the Mabo decision had almost been rejected by the court as a way of understanding native title, he said. "Indeed, the High Court has taken the legislation as the starting point and the ending point for interpreting native title," he said. It had also failed to properly interpret the common law when deciding the native title cases of the Miriuwung-Gajerrong people of the Kimberley and the Yorta Yorta people.

He called for this section of the Native Title Act to be amended. Otherwise the whole basis for the act, to recognise and protect native title, "is destroyed forever".

"The High Court's interpretation is patently at odds with the intention of Parliament, both during the time of the Keating government in 1993 and at the time the Native Title Amendment Act was passed by the Howard Government in 1998. "Both parliaments understood that their respective laws were preserving the common law rights articulated in the Mabo decision." The current High Court judges had chosen not to develop "the fledgling Australian law" by drawing on international examples as Justice William Brennan and his fellow judges had in the Mabo decision. Rather, they had "taken the easy road of interpreting and developing native title under the rubric of statutory interpretation". Their interpretation of Yorta Yorta had shown that "whitefellas" get to keep all they have accumulated and "the blacks only get a fraction of what is left over and only get to share a co-existing and subservient title where they are able to surmount the most unreasonable and unyielding barriers of proof".

Mr Pearson said they have to prove "that they meet white Australia's cultural and legal prejudices about what constitutes 'real Aborigines'."

The High Court, in their nefarious Judgement against the Descendants of the Yorta Yorta Traditional Lands, have vindicated and endorsed the Racism of the howard Government and his 7 Point Plan. As I have said elsewhere, "we are never allowed to win, and even if we do, the Laws are changed so we lose."

This is the History of how the Invaders treat the Invaded. Born from a contempt that is measured in "bucketloads of extinguishment."

The High Court has now been stacked with those Judges who better reflect the ultra-conservatism of howard and his ilk. A White Australia view. A pre-1967 view.

We begin with a Statement made by Senator Aden Ridgeway, then we look to the Squatter, Curr, whose very existence on Yorta Yorta Land somehow erased generations of Aborigines.

This is followed by an analysis of the legal (?) arguments put by a majority of 5-2 that required Aborigines to prove, firstly, their Aboriginality, and then prove your Cultural Links to the Land claimed, and finally, proof must be shown that that Cultural Link has not been broken by the Colonial Invasion. The whole legal exercise is a farcical farrago of legal Racism at the strong behest of the Federal Government.

Whilst some 'Cockies' would not be celebrating the win (?) the Yorta Yorta People intend to now take their fight to the United Nations.

The High Court Rulings are being mirrored in the States and Territories. More on that later. ***ends***

Yorta Yorta Decision: Terra Nullius by Attrition

Senator Aden Ridgeway
Democrats Senator for New South Wales
Australian Democrats spokesperson for Indigenous Affairs
Dated: 12 December 2002
Press Release Number: 02/609

THE Australian Democrats' Indigenous Affairs spokesperson, Senator Aden Ridgeway, today expressed his disappointment in the High Court's decision in the Yorta Yorta case, branding it terra nullius by attrition.

"This decision shows that native title cannot be seen as the sole means by which we, as a nation, will be able to resolve the outstanding issues between Indigenous people and other Australians," said Senator Ridgeway.

The Yorta Yorta case was the longest running native title case in Australia, having been bounced around the courts and various mediation process since 1994.

"It is also likely to claim the unenviable title of being the most expensive - leaving generations of Yorta Yorta to carry the unjust legacy of debt.

"The determination of the Victorian and NSW Governments to deny the Yorta Yorta their native title rights is particularly concerning for all Indigenous Australians, but especially those in the South-East.

"This approach sits uncomfortably with these Governments' much touted commitments to Reconciliation.

"Just as the courts and the associated adversarial process of litigation is not an appropriate policy response to the legacy of the stolen generations, so too it falls well short of the mark when it comes to resolving the aftermath of more than two hundred years of oppression.

"Regardless of this latest judgement, the Yorta Yorta people know their culture and their connection to country still exists.

"The Australian Democrats pay tribute to the Yorta Yorta people for their determination in their fight for justice and support them in their ongoing battle for recognition," concluded Senator Ridgeway.

Claim sunk by a swordsman's pen

THE AGE
Fergus Shiel
December 13 2002

THE ghost of the 19th century squatter, champion swordsman and diarist Edward Curr yesterday came back to haunt the descendants of the people he once called his "sable friends".

Broken-hearted but still defiant, Yorta Yorta community members said as much after the High Court dismissed their native title appeal. In doing so, the court endorsed an earlier Federal Court ruling that relied very much on Curr's written recollections as the first pastoralist on Yorta Yorta country in the 1840s.

About 50 members of the Yorta Yorta's 4000-strong community learnt of the court decision at its Melbourne registry.

"Went down 5-2. Appeal dismissed with costs," their lawyer, Peter Seidel, cried out, pitching the gathering into deep sadness.

"When will they ever change?" said Yorta Yorta elder Elizabeth Hoffmann.

For Yorta Yorta elder Margaret Wirrpunda, grief quickly turned to anger. "If you think that our people are going to be wiped out by a few words, you are mistaken," she said.

Mrs Hoffmann's daughter, Monica Morgan, said the High Court had upheld a "pitiful Anglocentric, ethnocentric, racist evaluation". "The Yorta Yorta people will continue to live in our country, will continue to have our own identity," she said.

Edward Curr's great-great-great-granddaughter Pamela Curr said she felt very sad at the ruling, as it compounded her family's role in taking Yorta Yorta land. "It is a tragedy that we have not been able to give back to the Yorta Yorta what was theirs in the first place," she said.

Melbourne University Ph D student and Edward Curr expert Sam Furphy said it was ironic that the first trespasser on Yorta Yorta land had helped sink their claim. "The High Court has failed to give due consideration to the inherent biases in Curr's written account," Mr Furphy said.

Cockies are not crowing over court win

The Sydney Morning Herald
By Lyall Johnson
December 13 2002

GRAZIER Peter Newman believes there is no winner after yesterday's decision to reject the native title claim by the Yorta Yorta people. And for his part, there will be no celebrating.

Mr Newman, whose farm adjoins the Barmah state forest north of Nathalia on the Victoria-NSW border, doesn't even admit to being happy.

"I'm pleased that all Australians will still have access to the land that had been claimed ... but I don't think there can be a winner out of this. You won't see us celebrating with a barbecue tonight."

Using the motto "Barmah forest for all and forever", farmers in the area, many of whose families have worked the same land since the 1870s, were instrumental in fighting the native title claim, which involved about 2000 square kilometres of crown land, forests and waterways in Victoria and NSW.

According to Stan Vale, president of the Barmah Forest Preservation League, the native title claim brought an uncertainty to the lives of all people in the region not because it threatened their lands directly but because it involved a claim over part of the Murray that supplies water to the area.

"It was an unknown quantity what would happen if they were to gain native title of the area, especially with the water involved," he said.

"It was well known that they wanted cattle and logging out, but on the broader picture they didn't map anything out so what would have happened with the water we didn't know. All the businesses in the area would have been affected."

A further, somewhat unusual consequence of the native title claim, according to the farmers, could have been an increase in the danger of wildfire that would irreparably destroy the red gum forest.

Local graziers are allowed to graze their cattle in the forest, which they say reduces undergrowth that by the end of summer is tinder dry and a fire hazard.

"All of the area around here would be very vulnerable to wildfire if we didn't have the cattle in there and that's a fact," said Kelvin Trickey, a fourth generation farmer from Nathalia.

Yorta a 'dismal day for Aboriginal justice'

The Sydney Morning Herald

By Cynthia Banham
December 13 2002

ABORIGINES claimed yesterday they faced an impossible task achieving land rights, after the High Court dismissed a native title application by the Yorta Yorta people.

The court ruled 5-2 that indigenous people had to prove their observance of traditional law and custom could be traced back to 1788, and had remained "substantially uninterrupted" ever since.

The Yorta Yorta, who claimed title over more than 1800 square kilometres in areas including southern NSW, near Albury, as well as northern Victoria, were devastated by the decision. The claim co-ordinator, Monica Morgan, said it was a "dismal day for Aboriginal justice".

Their legal fight had lasted eight years, and was the longest in native title history.

The chairman of the Aboriginal and Torres Strait Islander Commission, Geoff Clark, said the decision flew in the face of the Mabo decision recognising native title. It meant native title "doesn't exist".

Lawyers involved in the case said the decision confirmed the bar to proving native title was a high one, and that it would be very difficult to prove it existed in more settled parts of Australia. Proving laws and customs could be traced back to pre-European settlement days was "not going to be easy".

The judgement was welcomed by the Federal Government, with the Attorney-General, Daryl Williams, saying it was an "important additional piece in the evolving picture of native title", and did not represent a departure from Mabo.

In a joint judgement, Justice Murray Gleeson said the key question in determining native title was whether Aboriginal law and custom could be seen to be "traditional", or had they changed and adapted so much so they could no longer be said to be the same rights or interests observed by the relevant group's forebears, in 1788.

"Acknowledgement and observance of those laws and customs must have continued substantially uninterrupted since sovereignty," the judges said.

"Were that not so, the laws and customs acknowledged and observed now could not properly be described as the traditional laws and customs of the people concerned."

Justices Michael Kirby and Mary Gaudron dissented.

A senior law lecturer at Melbourne University, Maureen Tehan, believed the decision went further than previous High Court rulings.

She said the decision meant "it's part of the claimant's case to establish there has been a substantial continuity of traditional law and custom from the time of sovereignty until the present day, and that a gap in the evidence of that continuity may be fatal to meeting that test".

The National Native Title Tribunal president, Graeme Neate, said the decision showed litigation was "an onerous way to go".

He said it was clear many indigenous groups pursuing naive title faced a "difficult challenge" and they should be encouraged to use mediation instead.

The Victorian Government committed itself to pursuing out-of-court negotiations with the Yorta Yorta people to "address their aspirations".

Labor's spokesman on reconciliation, Senator Chris Evans, said the decision was a "disappointing blow" to the Yorta Yorta.

Democrats Senator Aden Ridgeway described it as "terra nullius by attrition", and Greens Senator Bob Brown said the groups' dispossession "is a national injustice"

Yorta Yorta to take title case to UN

THE AGE
By Fergus Shiel
Law Reporter
September 13, 2003

THE Yorta Yorta people of Victoria and NSW are preparing to lodge a complaint with the United Nations, claiming that the High Court's rejection of their native title bid denied them their inherent cultural rights.

Last year, the High Court rejected the 4000-strong Yorta Yorta people's claim, upholding an earlier Federal Court ruling that the tide of history had washed away their traditional rights.

Having run out of legal options at home, Yorta Yorta elders will meet soon to ratify the formal complaint to the UN Human Rights Committee.

Yorta Yorta spokesman Henry Atkinson said: "There will never ever be a way that governments or anybody will kill the spirit of our people.

"They may have stolen our children and our language and even tried to steal the colour of our skin but they will never, ever steal the spirit of the Yorta Yorta people."

Their lawyer Peter Seidel, of Arnold Bloch Leibler, said the complaint to the UN would go beyond symbolism - it would be an important legal- political document.

Mr Seidel said the point of the complaint was that the law of native title in Australia now applying to the Yorta Yorta breached the international covenant on civil and political rights. "It breaches it, we say, because it denies the Yorta Yorta the opportunity to access protections under the Native Title Act including the crucial right to be involved in decisions protecting their traditional country," he said. The complaint is expected to be

filed in the next couple of months.

The Yorta Yorta claim, first lodged in 1994, was Australia's longest-running native title case.

Other claims are also being summarily dismissed under the new rules. Rules that equate to the Language Test applied to those attempting to enter this Country under the White Australia Policy. Should you have been Black or Asian you were given a Language Test in a European Language, such as Dutch, Gaelic or any Language other than Australian. ***Ends***

Indigenous groups fail in land claim bid

ABC INDIGENOUS NEWS
Tuesday, September 23, 2003

TWO Aboriginal land claims against the NSW south coast's Shellharbour City Council over land set aside for a marina have failed.

The claims, totalling $1 million, were made by Cummins bloodline Aboriginal descendants of the Wulu Ngulu, and the Russell bloodline Gundangara Aboriginal people.

Shellharbour council general manager Brian Weir says he has been advised the two groups could not sufficiently demonstrate an ongoing connection to the land.

The situation for the First Nations People of Canada is much different to the continuing arrogance of our Governments.

In Canada there is a genuine effort by the Canadian Government to real Reconciliation and Land Rights Justice for the Dogrib Nation. Like the Nunuvut before them, the Dogrib Nation has been granted some 24,000 square kilometres of their Lands. They have also been given all ownership rights to all the resources upon the Land, rivers and seas.

Will this ever happen in this Country? I very much doubt it, whatever Government is in power.

Dogrib people given right to decide their own future

The Sydney Morning Herald
August 27, 2003

THE Canadian Prime Minister, Jean Chretien, has signed a historic land settlement, granting the 4000-member Dogrib tribe powers to preserve their culture, govern themselves and receive tax revenue in a territory bigger than Belgium.

The Dogrib, an aboriginal people in Canada's western Arctic, also known as the Tlicho First Nation, will gain self-rule over about 24,000 square kilometres of land between the Great Slave Lake and the Great Bear Lake in Canada's sparsely populated north.

Under the agreement, similar to the land settlement that established the huge Nunavut territory in the eastern Arctic in 1999, the Dogrib will have the authority to collect taxes, control hunting, fishing and industrial development, and collect resource royalties, including those from two diamond mines on their land.

"This agreement represents what is best about Canada," Mr Chretien told about 500 people gathered in a school gymnasium in Rae-Edzo, one of four Dogrib communities, about 95 kilometres north-west of Yellowknife, capital of the Northwest Territories.

"We lead the world in the recognition of aboriginal rights," Mr Chretien said. "We are the only country to recognise those rights in our constitution."

The agreement recognises the Dogrib's right to self-government and ownership of their land. The federal government will maintain control over criminal law, health and education.

Mr Chretien said the agreements and settlement of long-standing land claims constitute an evolution in Canada's relations with its aboriginal people, which has often been fraught with problems.

Under the agreement, the tribe will be paid $C152 million ($167 million), to be deposited in a tribal trust fund over the next 15 years.

The Dogrib will be able to set the terms of development in their land.

Existing resource development contracts are to remain in force until present leases expire. After that, leaseholders must negotiate new terms with the Dogrib government.

The Dogrib have taken steps to prepare for their new government. They own power land development and drilling companies and an airline

“If anything - including oil, gas, diamonds - is found on our land we selected, we will get 100 per cent of the royalties," John Zoe, the Dogrib chief negotiator, said.

Unlike the Canadian Government our Governments and our Courts now only wish to give partial ownership of the Traditional Lands, an ownership that is merely restricted to access for Culture purposes. Resources from those Lands belong to others.

The Cultural practices of Respecting and Revering the Lands, as in the pre-Invasion days, is sternly

dismissed by those Federal Government Ministers who carry some responsibility in these areas

Where Land is already Traditionally owned, the complaint made is that the Lands are not being used correctly, a Capitalist correctness must be applied. For years howard, herron, ruddock and now Tony Abbott have decried the lack of initiative of the owners in not inviting the Mining Industry in, to not rent the Lands out to entrepreneurs, or perhaps worse still, why the Lands are not sold! As stated earlier, the Federal Government has attempted to link this argument to the voice of Noel Pearson. This, like most Government utterances is a lie.

Abbott sets out the argument below. ***ends***

Abbott rocks land title boat

The Sydney Morning Herald
Editorial
March 18, 2003

TONY Abbott makes an important step in his observation of the failure to raise the living standards of many Aborigines. The federal Employment Minister attempts to articulate at least the beginning of a solution. Its merits and shortcomings will be debated vigorously. Already the Abbott suggestions, after a Cape York visit, appear underpinned by a prerequisite for dragging the Aboriginal struggle for economic independence from its bog of despair and hopelessness. Progress demands acknowledgement of the foolishness of persisting with past ways. Their failure is obvious to all. Innovation, imagination, radicalism, masterful negotiations, much money and even more political will are needed.

Mr Abbott says a starting point is to change the economic value of land granted to Aboriginal communities. Native title, first recognised by the High Court in the 1992 Mabo ruling, was meant to raise Aboriginal self-esteem and self-sufficiency but its application has disappointed many Aborigines who complain it is too hard to obtain and, once granted, bestows too little economic benefit. That's because title to granted land cannot be sold. Communities, therefore, cannot borrow against it. Even land use is restricted by conditions attached to so many native titles.

All this may make Aborigines' spiritual attachment to the land more pristine, but it won't create jobs or set educational goals for Aboriginal children.

The Abbott suggestion is to convert native title to freehold title. While native title was "indivisible, inalienable, collective" and "economically useless", he said, economic usefulness demanded land be alienable. Capitalism required capital. Mr Abbott is entitled to a B-plus for his boldness at weighing in on a debate where faint hearts for too long feared to tread. Wary of the racist brand, white leaders avoided the scandal of initiative-draining Aboriginal welfare dependency until the Aboriginal leader, Noel Pearson, bit the bullet three years ago. There are parallels with the land debate. If land became tradeable, it is argued, Aboriginal communities would be more self-reliant and responsible. But would they?

Native title was identified by the High Court and brushing it aside by executive edict does not erase its legal existence. NSW has lived with Aboriginal freehold land titles for years. They, too, were meant to induce self-sufficiency but mismanagement, cronyism and questionable legality characterise too many dealings.

This overdue debate should flourish. At the same time, potential economic benefit must not be squandered for the benefit of a few.

It now becomes necessary for an alternative to the rosy picture that has been painted, to be given. Examples abound in the USA whose Governments generally treat their Indigenes with the contempt that our Governments give to us. Profits is the name of the game and to hell with everything else. ***ends***

It's Gas vs. Heritage in Navajo Country

October 14, 2003
By SIMON ROMERO

NAGEEZI, N.M. - THE Navajo revere this remote area around a tabletop mesa in north-western New Mexico as the place where the mythical figure Changing Woman gave birth to two warrior sons who made the universe safe.

Energy companies desire this area for its strategic location in the San Juan Basin, a geological mother lode of natural gas reserves in the Four Corners region that has become one of North America's richest sources of mineral wealth.

The almost inevitable clash of these conflicting values has laid bare the Navajo Nation's contentious relations with oil and gas companies, including accusations of underpayment for land leases and negligence by the government agencies overseeing such agreements.

Residents of gas-producing areas throughout the West are following the dispute as energy companies seek to increase drilling in environmentally and culturally sensitive areas in an effort to meet the growing

demand for gas, a relatively clean-burning fuel. [Tight supplies have caused natural gas prices to rise nearly 15 percent in October.]

Specifically at issue is the future of a small community a few miles north of here - Dzilth-Na-O-Dith-Hle (pronounced dee-zeel-NAH-oo-dee-lee, or "Dee-zee" for those without a command of Navajo). The dispute reached a boiling point over the summer when the federal Bureau of Land Management accepted gas companies' requests to allow exploration on the mesa and on Gobernador Knob, another site a few miles away that is sacred to the Navajo.

The Navajo tribe's president, Joe Shirley Jr., and a Navajo environmental group, Diné Citizens Against Ruining Our Environment, resisted the proposals, even though the land in question is not on the Navajo reservation. Diné (pronounced dee-NEH) is the word the Navajo often use to refer to themselves.

"Because of their significance to Diné life, any desecration through oil and gas drilling on or near the two mountains will have a devastating effect on Navajo beliefs," Mr. Shirley said in a recent letter to the Bureau of Land Management, an Interior Department agency.

Calvert Garcia, president of the Nageezi chapter of the Navajo Nation and an aide to Mr. Shirley, was more graphic. "It's like putting a gas well on top of the Lincoln Memorial," he said. "The insensitivity of the gas companies when it comes to our culture is hard to fathom."

Bob Gallagher, president of the New Mexico Oil and Gas Association, said energy companies were trying to respect Navajo concerns while also finding a way to meet the country's energy needs. "Our thought process," he said, "is let's make sure we understand these areas well before getting out a magic marker and drawing a circle around them that says `off limits.' "

He added that "we have the technology that can minimize the impact to the surface of some places." Besides, he said, the mesa is already used as a base for wireless transmission towers by several communications companies. "We don't believe there's any difference between those towers and our wells," he said.

In any case, officials at the Farmington, N.M., office of the Bureau of Land Management responded to the controversy in July by indefinitely halting any leasing or drilling activities in the two areas - to the frustration of energy companies that were hoping to seize upon the high gas prices and increase drilling throughout the San Juan Basin.

At stake, energy industry executives say, is the ability to expand domestic gas production when supplies are tight. Demand for natural gas has soared in the last 12 months, with nearly every electricity plant built in the last five years having been designed to be fired mainly by gas.

As a result, gas futures prices have climbed more than 50 percent in the last year, to $5.547 for each 1,000 cubic feet, and analysts said they expected prices to remain around that level or higher for several years. Gas companies throughout the West have clashed with environmentalists over efforts to expand drilling on public lands, but in few places have their differences been so pronounced as in north-western New Mexico.

The stakes for both the Navajo and the gas industry could hardly be higher. The San Juan Basin - which stretches over much of this part of New Mexico and into south-western Colorado, including areas of the Navajo Nation and its fringes - accounts for about 7 percent of the gas supply of the United States, helping to make New Mexico the second-largest gas- producing state after Texas.

The United States Geological Survey earlier this year more than doubled its estimate of the amount of gas in the basin, to 50.6 trillion cubic feet, from a previous estimate of 21 trillion cubic feet. Drillers have already sunk about 18,000 wells in the basin; the New Mexico Institute of Mining and Technology estimates that the region could accommodate 12,500 more wells over the next two decades, a figure in line with a resource management plan approved by the Bureau of Land Management late in >September.

Despite such abundance, most Navajos, whether living on the reservation or on land allotted by the federal government, still use firewood to heat their homes and to cook their meals - they are often too poor to afford gas and often, it is not even available where they live. This has hardened the feelings of many among the Navajo, the United States' largest Indian tribe with more than 270,000 members, against the energy companies.

"You can actually smell the gas from some wells while realizing that you can't have gas service for your house in the winter," said Lori Goodman, an organizer with Diné Citizens Against Ruining Our Environment. "It's the same as living in a colony where the companies get rich extracting natural resources and the people stay poor."

These sentiments were reinforced by a report in August that concluded that energy companies had paid private Navajo landowners living near the reservation far less than others for the right to build pipelines across their land. The report was prepared by a court-appointed investigator, Alan L. Balaran of Washington, as part of a class-action lawsuit asserting that the Interior Department improperly managed mineral royalties for Indians.

Most of the country's large gas exploration and pipeline companies had a role in these deals because nearly all of them operate in the basin, people involved in overseeing the leasing agreements said.

For instance, in one deal described in the report, a company that was not identified paid private Navajo landowners $25 to $40 for each rod of pipeline that crossed their land - a rod measures roughly 16.5 feet - while other landowners in the basin received more than 10 times that, $432 to $455. That company was the El Paso Corporation of Houston, the country's largest pipeline company, according to officials involved in reviewing natural gas transactions in north-western New Mexico.

A spokesman for El Paso, Melbourne Scott, said in response: "El Paso Corporation pays Navajo allottees for pipeline right of way based on appraisal figures provided to El Paso by the Bureau of Indian Affairs realty office. The B.I.A. realty office, under the auspices of the Department of the Interior, performs appraisals which enable that agency to determine the rate at which individual allottees will be compensated. Our company follows the rules and guidelines of the B.I.A."

Mr. Balaran's report also found that a federal employee, Anson Baker, the Bureau of Indian Affairs' chief appraiser for the Navajo region, had destroyed documents related to these agreements, which Navajo landowners often ratified with a thumb print because they could not speak, read or write English. Mr. Baker, who acknowledged that he had erased computer files related to the Navajo payments, was recently transferred to Oregon after more than 20 years at the Navajo office in Farmington.

Another federal employee, Kevin Gambrell, head of the Indian Minerals Office in Farmington since 1996, was fired by the Interior Department in September after he told Mr. Balaran about discrepancies in deals between Navajo landowners and energy companies.

In an interview, Mr. Gambrell said that Interior Department officials had "trumped up" claims of document destruction and insubordination as a way to get rid of him.

Curtis Carey, a spokesman for the Minerals Management Service in Washington, also an Interior Department agency, said, "Kevin Gambrell was dismissed for cause." Mr. Carey declined to elaborate on the reasons for Mr. Gambrell's firing, citing privacy requirements.

Given this context, few people expect the Navajo Nation and the energy companies to resolve their differences anytime soon. The lawsuit against the Interior Department could drag on for years as Navajo landowners wait for better terms from energy companies. And Dzilth-Na-O-Dith-Hle is likely to remain a flash point for the difficulties that the gas companies have had with the Navajo.

Steve Henke, field manager of the Bureau of Land Management's office in Farmington, said, "We will not be issuing any new leases in these areas until we have completed a thorough consultation with the tribe." Asked how long such a process could take, Mr. Henke replied, "On something as sensitive as this, as long as it takes to arrive at an understanding of what's really at stake."

Luckily for the First Nations People in Canada they are recognised as having Rights to their own Traditional Lands. Like the Nunavut, the Dogrib Nation has been granted some 24,000 square kilometres of their Lands. They also have the resource rights to their Land and, as the owners, have the right to negotiate use of the Land and its resources with mining and other Companies. Can any one really imagine something along these lines happening in this Country? I think not, regardless of whatever political party may be in Government.

Our Governments, at all levels, along with our Courts, also at all levels are only interested in giving partial ownership of the Traditional Lands, an ownership that allows access for Cultural purposes only.

Resources arising from the Land belongs to others.

The Cultural practice of Respecting and Revering the Land in the pre-Invasion fashion is sternly dismissed by the Federal Government Ministers who have some responsibility in this area

Since 1996 the howard Government focus has been to destroy all facets of Land Rights in this Country. Not only current and future claims but even to undo past successful claims. Very firmly in their sights is the Northern Territory Land Rights Act, 1975.

The Act was introduced by Gough Whitlam but it was Malcolm Fraser that made it Law, much to the horror of howard and other hardliners of the time. Howard has initiated the spending of millions of dollars to set up legal challenges to

either remove or badly weaken the purpose of the Act,

Part of their frustration arises from the above article, partly also from the entrenched view that Land given to Aborigines and Torres Strait Islanders is wasted as it becomes out of the reach of Capitalists who know how to make profits.

The following articles give a taste, and a foul taste at that, of the machinations of the Federal Government's attempts. ***Ends***

Ruddock denies withholding NT land council funds

ABC Indigenous News
February 28, 2003

FEDERAL Minister for Indigenous Affairs Philip Ruddock has denied he is withholding almost $70 million in royalties from Northern Territory land councils.

The councils says Mr Ruddock is holding the money in the Aboriginal benefits account until they agree to endorse proposed Commonwealth amendments to the Territory's Land Rights Act.

Mr Ruddock maintains the land councils must demonstrate they are addressing issues identified in a performance audit, including how they manage outcomes, outputs and cost effectiveness.

Mr Ruddock says he will release the money when he is confident it will be appropriately administered.

"I am not trying to blackmail them or anything of that nature, I would like to think that good will in relation to dealing with issues to them would be reciprocated by goodwill and talking about land rights reform," he said.

"They're talking to the Northern Territory Government.

"I hope that in their discussions, they're addressing the full range of issues that were outlined in my discussion paper."

Secrecy on land rights denied

Northern Territory News
Karen Michelmore
26 August 2003

THE NT Government was yesterday forced to defend itself against allegations its submission to a Federal Government review of the Aboriginal Land Rights Act was shrouded in secrecy.

Federal Member for Solomon Dave Tollner has accused the Territory Government of trying to cover up its submission to the Federal Government's review of the legislation, which protects Aboriginal land rights in the territory.

The Federal Government is considering changes to the Act, which Mr Tollner said could include the possible handing back of the legislation to the NT Government to control and establish smaller, more numerous regional land councils.

Mr Tollner said he had asked Federal Aboriginal Affairs Minister Philip Ruddock for a copy of the submission but was told the NT Government had asked that it be kept confidential.

NT Chief Minister Clare Martin said the document was part of a Federal Government review, so it was up to Mr Ruddock as to whether the submission was made public.

``If Philip Ruddock thinks Dave Tollner should have a copy then he can give it to him," she said.

`It's not in my jurisdiction to give it to him _ it's his report."

But an NT Government spokesman said the document had not been made public, partly to ensure the issue wasn't ``clouded in politics".

NT Resources Minister Paul Henderson adviser Mark Nelson said: ``This has been a massive issue for a long time in the Territory.

`There's been a lot of politics played over the years with land rights. `The Government wants to see effective changes to the legislation."

But Mr Tollner said all Territorians should have a right to hear the NT Government's view on the issue.

`I would like to know what the NT Government is recommending should happen with an Act that effectively manages 50 per cent of the territory," Mr Tollner said.

`I'm pretty interested in knowing what they've decided was best for the Territory."

Action urged on land law

The West Australian
September 11, 2003

THE Northern Territory Government called on the Federal Government yesterday to move ahead with changes to Aboriginal land rights law.

It came as the NT Government said it had reached an historic agreement with Aboriginal land councils and key mining figures on a series of proposals to make the Land Rights Act, which covers half of the territory's landmass, less complex and more flexible.

The proposals were contained in a submission that has been sent to the Federal Government as part of its review into the Act

. One good news story to come out of the NT is the complete victory of the Mirrar People in their opposition to the Jabiluka uranium mine. Well done

to all involved in the 5 year battle. ***ends***

Filling of Jabiluka shaft ends years of hostility

THE AGE
By David Hancock
August 18, 2003

FIVE years after bitter, unsuccessful protests to stop the building of the Jabiluka uranium mine in the Northern Territory, work began last week to fill the shaft.

Energy Resources of Australia, holders of the lease in Kakadu National Park and operator of the nearby Ranger Uranium Mine, conceded it was unable to move the 50,000 tonnes of uranium ore stockpiled at Jabiluka because traditional owners, the Mirrar, would not let the company build a road to the mill at Ranger, 30 kilometres away.

The Mirrar were concerned catastrophic events would occur if the mine disturbed the Boyweg (knob-tail gecko) sacred site.

The biggest environmental campaign since the Franklin River blockade in Tasmania in the 1980s ended last week. More than 5000 people helped the Aboriginal clan of 26 fight the company, which had been backed by the Federal and Northern Territory governments.

When the mine was built and the protesters had moved on, the Mirrar remained steadfast, despite big financial incentives to change their minds. In August 2000, Rio Tinto acquired 68.5 per cent of ERA after it took over parent company North.

"Since then they have been really good and started listening," Mirrar leader Yvonne Margarula said. "In the beginning, we thought that nobody really believed what we were saying. Now, it's a really wonderful feeling for me to have the mining company believe in what we say and that we are not telling lies," she said.

ERA's general manager of operations Simon Prebble said Rio Tinto and ERA wanted to work with local communities.

"It makes good social, environmental and economic sense," he said.

Before leaving the NT we need to look at a new phenomenon of the Land Rights you are given only if you agree to give the Land back to the Government. This happened some years back to the Dhungutti People when the NSW Government in 1997 agreed to hand Land back at Crescent Head, NSW on the condition the Traditional owners, after some 2 hours, then handed the Land back to the Government. The Government then on-sold the Land to Developers. The People got the money.

Strange Land Rights indeed! For some unknown reason, ATSIC agrees with the New Deal. ***ends***

Aborigines offered equal role in park management

The Sydney Morning Herald
By Debra Jopson
September 20, 2003

THE Northern Territory Government will introduce radical legislation making management of its national parks with Aboriginal people "the norm".

The Northern Territory Chief Minister, Clare Martin, said yesterday that the bill recognised, for the first time, the Territory's objective of maintaining and promoting Aboriginal values alongside the values of the natural environment. The legislation will be introduced next month.

If traditional owners agree to a 99-year leaseback arrangement and joint management with the Territory Government, 14 parks will be declared Aboriginal land.

These parks include the Devils Marbles Conservation Reserve, Finke Gorge National Park and the new West MacDonnell National Park near Alice Springs.

Traditional owners of another six parks, including the Keep River National Park, will get a different tenure - freehold title to the land with a similar 99-year leaseback arrangement if they agree to the deal.

Another 12 parks, including the Alice Springs Telegraph Station historical reserve and Litchfield National Park, will not change tenure, but will be jointly managed by the Territory Government and traditional owners.

Kakadu and Uluru, which are jointly owned and managed by Aborigines under agreements with the Federal Government, are not included. There is such deep distrust of the Northern Territory Government through past dealings during the Country Liberal Party's years in office that no attempt would be made to approach the traditional owners there, Ms Martin said.

The Territory Government created the new framework for national parks after the High Court's Ward decision on native title. This decision meant that virtually all of its national parks were likely to have been invalidly declared, while 11 were open to claim under the Territory's Aboriginal Land Rights Act, she said.

It was a better alternative than engaging in litigation and disputation that "would have delayed economic development opportunities and maintained uncertainty over our parks system".

Under the bill, the national parks will be handed to the traditional owners only if they agree before July 31 next year to withdraw any land claims or native title claims in exchange

for the leaseback and joint management deal. The parks are to remain accessible to all visitors, who will not have to get permits or pay fees to enter them.

The Central and Northern Land Councils, which helped negotiate the deal, welcomed the announcement. The chairman of the Northern Land Council, Galarrwuy Yunupingu, said he was pleased there was a specific commitment to Aboriginal jobs and economic development in the deal, which is based on the successful joint management by the Jawoyn people of Nitmiluk National Park, near Katherine.

The director of the Central Land Council, David Ross, said there were still some unresolved issues and it would be up to traditional owners to make their own decisions about whether to accept the package.

Ms Martin said the new park set-up would boost the Northern Territory as "one of the world's last truly remote nature-based tourism destinations". The West Macdonnell National Park, for example, had the potential to be one of the great scenic and cultural destinations in the world.

ATSIC happy with changes to parks' management structure

http://www.abc.net.au/news/newsitems

ATSIC says a proposal by the Territory Government to change the management structure of some Territory parks will save millions of dollars in court costs.

The Government is proposing legislation to enable traditional owners and the Government to become involved in the joint management of some national parks.

The bill has been developed in response to a High Court decision last year, which left land rights claims over 11 Territory parks.

ATSIC's Central Zone commissioner Alison Anderson says negotiated settlements are a better alternative to stalled court action.

"There's time to develop a partnership with both the Northern Territory Government and the land councils so that we've got government and peak bodies in the Northern Territory actually working together to get the best possible outcome for Territorians and Indigenous people," she said.

Moving to the Kimberly Region of Western Australia we also must as a matter of historical significance return to the force and fiasco that was Noonkanbah in 1979-1980. A brief history is in order.

In 1971 the Walmatjarri and the Nyikina Peoples walked off Noonkanbah Station because of ill-treatment and moved to Fitzroy Crossing. In 1976 the Station was bought by the Aboriginal Land Fund Commission and given to the Yangngara Community. In 1977-78 some 500 mineral claims were pegged and in May 1978 the Community learnt that a road was to be bulldozed through a sacred area. A confrontation occurred and the Community asked the Aboriginal Legal Service to stop further exploration.

The Community lost the subsequent Court case but miners were forced to operate under the WA Heritage Act,1972 (WA). In the meantime CRA wanted to drill for oil. After failed negotiations CRA then attempted to enter the Land on 15 June, 1979.

They were rebuffed and returned with the Force in March, 1980. police continued to provide protection for CRA and its drilling crews and drilling began on 30 August, 1980.

No oil was ever found and CRA slunk away but not before earning for themselves and the Court Government the condemnation of the United Nations, among others.

No Ownership Rights then and none now. ***ends***

Native title issues set to dominate KLC celebrations

http://www.abc.net.au/news/newsitems/s941795.htm
Tuesday, September 9, 2003

THE future of land rights in Western Australia will be the focus of a big gathering of Indigenous leaders near Kununurra in the State's north-west today.

About 500 people are expected to attend the anniversary celebrations of the Kimberley Land Council (KLC).

It has been 25 years since activists began the fight to win back land and protect sacred sites by setting up the Kimberley Land Council.

Today Indigenous interests hold a third of the Kimberley's pastoral leases and 14 per cent of the region is made up of Aboriginal reserves. But it is the lack of progress on native title which looks set to dominate this week's celebrations at Wuggubun.

”I think the broader Australian community, if this goes on for another 10 years, are going to be extremely frustrated," KLC director Wayne Bergmann said.

Since Mabo, there have been only five native title determinations in the

Kimberley, leaving more than 20 claims unresolved

Noonkanbah battle recalled

The West Australian
By Charlie Wilson-Clark
September 13, 2003

KIMBERLEY Aboriginals involved in the violent confrontation at Noonkanbah more than 20 years ago believe it could be time to protest again.

John Watson, Joe Brown and Ivan McPhee were on the picket line in the battle with Amax mining company, who wanted to drill for oil on sacred sites at the Aboriginal-run cattle station.

Then premier Sir Charles Court defended the drilling and used police to break the blockade in defence of development. What formed from the highly publicised event were the foundations of an organisation which celebrated its 25th year in the Kimberley this week.

Mr Watson, a Nyikina Mangala man, said Noonkanbah was where the Kimberley Land Council began and, although the drilling went ahead, a more important stand was made.

"We got dragged away by about 400 police who moved people out of the road," he said. "Some of us got chucked in jail, to the lockup, they took us to Fitzroy Crossing.

"The mining company had their way with the help of the police and the State government, that time was Charlie Court.

"I wanted to stop them because it was our people and we didn't want it disturbed. Our heritage has been handed down from people to people - that is what we are trying to look after."

Amax never found oil at Noonkanbah, but the founding members believe the moment of protest was pivotal in uniting traditional landowners.

"If you mention to any government now that we are going to go back to Noonkanbah days, they don't want to hear it," Mr Watson said. "I think we have to do that in some cases if the government doesn't come good."

Some would say tough talk and tough politics have never been off the agenda for the KLC, who have nurtured some of the country's better known Aboriginal leaders including brothers Pat and Mick Dodson and long-time director Peter Yu.

"We are not radicals," Mr Watson insists. "We are trying to work with people - it is our right to see justice for our lands in the way it has been handed down to us." On the final day of celebrations this week at Wuggubun, 55km south of Kununurra, the KLC presented a statement to Premier Geoff Gallop's representative, Kimberley MLA Carol Martin, which set out the concerns of traditional landowners today.

Health, education and future opportunities for youth were highlighted and the KLC called on the State Government to agree to a regional framework which would get results.

Executive director Wayne Bergmann said government departments and the Aboriginal and Torres Strait Islander Commission had failed and problems facing Aboriginals had worsened.

"These regional settlements need to address the land justice and heritage issues, governance, economic development, our quality of life and services and how we can heal our families and our people," he said.

Ms Martin said she would support the statement and ensure it was taken to Cabinet.

KLC chairman Tom Birch said the Wuggubun event had restored the vitality of the organisation. A convoy of decorated vehicles travelling from Broome attracted attention from passing traffic and instilled a sense of pride among young people.

The founding members of the KLC and previous chairs were valuable mentors to the organisation.

Energies were now employed in running 27 native title claims in the region, five of which were before the Federal courts.

The current State Government had overseen determinations of native title for the Tjurabalan and Karajarri people while traditional owners of Purnululu had been recognised. "There has been goodwill but the funding has become critical," Mr Birch said.

Mr McPhee, a former chairman and the youngest member of the founding executive, said he was heartened by a visit to Wuggubun from National Native Title Tribunal deputy president Fred Chaney.

The Nyoongars of the South-West of Western Australia then began a huge and united, mostly, Land claim covering thousands of square kilometres of Traditional Lands.

Move welcomed to settle native title cases away from Federal Court

ABC Indigenous News
February 28, 2003

A key native title stakeholder has welcomed the Western Australia Government's move to settle claims in the state's south-west region before they enter the Federal Court. The South-West Land and Sea Council says it is happy to join proposed mediation to settle Noongar claims over the region.

The council's Darryl Pearce agrees with Deputy Premier Eric Ripper that negotiations are better than a protracted Federal Court case. However, Mr Pearce says the State

Government must understand they are only willing to negotiate one claim over the whole region.

"But I think more importantly that the Government has to acknowledge that the claims themselves won't be seen as single separate entities, but there will just a united front from the Noongars representing all Noongar people," he said. Ends

The Traditional owners of Land that holds the Ludlow tuart forest are protesting mining in the area, especially where a massacre of some 300 Aborigines happened back in 1841. the WA Government is investigating the information

WA Govt casts doubt over native title claim

http://www.abc.net.au/news/newsitems/s941870.htm

THE Western Australian Government says a decision by the Nyoongar people to lodge a single claim over a large area of the state will not be enough to win them the recognition they want.

The South-West Aboriginal Land and Sea Council says six claims across the south-west region, including the Perth metropolitan area, will culminate in the lodgement of a single claim with the Federal Court tomorrow.

A spokesman for Deputy Premier Eric Ripper says recent decisions in the High Court mean it is highly unlikely native title will be granted in the south-west.

The spokesman says the Government is looking at other ways the Nyoongar people's link to the land can be recognised. The Land and Sea Council's chief executive, Darryl Pearce, agrees most of the peoples' land cannot be claimed, but some can.

"From our perspective we're very confident that the Nyoongar people can prove native title where it still remains in the south-west, obviously there's not a lot of native title areas still in existence, but certainly where it is we're reasonably confident that Nyoongars are able to prove it," he said.

Nyoongars hail unified stand

The West Australian
September 8, 2003

SOUTH-WEST Aboriginals have shaken off a reputation for division and dispute to stand together on a single land claim covering the entire region.

The eight-month process of consulting with land claimants for the existing six claims in the South-West will culminate in the lodgement of a single Nyoongar claim with the Federal Court this week.

Just two families have elected to stay outside the process and will continue to push for their own claims.

But with 218 Nyoongar families signed on, talks have begun to establish a regional authority for the area representing the interests of Aboriginals on a range of issues.

Stretching from Perth to Jurien Bay in the north, past Merredin in the east and south past Hopetoun, the single claim brings together 27,000 Nyoongars as a single cultural bloc.

Claimant Richard Walley said Nyoongars had been unfairly tagged as a divided group when they always agreed on fundamental principles.

"The first thing we agree on is we are Nyoongars and the next thing we agree on is we have a connection to the land," he said. "Land is a big issue, land gives you a sense of belonging and that is something we have always had a very spiritual sense of - not in a so-called Western legal sense."

The South-West Aboriginal Land and Sea Council, which is funded by the Federal Government, will lodge the claim in the full knowledge native title cannot be granted over privately owned land, national parks and most reserve land.

Native title could be proven over a small portion of the region consisting of unallocated crown land, Aboriginal reserves, pastoral and agricultural leases.

But SWALSC chief executive Darryl Pearce insists the impetus for the claim exists outside the strict parameters of native title legislation and includes the development of memorandums of understanding, procedures for consulting over heritage issues and efforts to improve social disadvantages including health, education and employment.

"We are trying to make sure the community feels very positive about being recognised as traditional owners of country," he said.

"We are already seeing growth in people feeling self-assured and confident - so they don't feel like strangers on their own land."

Mr Pearce said a series of 250 family meetings across the region would form the most intensive face-to-face consultation undertaken in Australia and authorise claimants to represent their families in land and heritage issues.

People who had never been involved in native title claims before were coming forward as appropriate representatives and self-interested renegade claimants were being forced to seek authority from their families.

Genealogy records had also been updated creating a database, which can now be traced back to a group of 150 ancestors at the time of colonisation.

MOUs were already signed with the WA Local Government Association and Conservation and Land Management. Others were being developed with the

Department of Indigenous Affairs, the Office of Aboriginal Economic Development and the Indigenous Land Council.

Aboriginal and Torres Strait Islander Commission South-West commissioner Farley Garlett said the process had given Nyoongar people a vision for the future. He expected the claim would be replicated across the country.

Discussions had started to establish a regional authority on the back of the claim.

DIA director-general Richard Curry has supported the move. He said yesterday SWALSC had done a good job of bringing the community together for a single purpose.

"Two years ago this discussion was not happening, that is the encouraging part of it for me," he said.

National Native Title Tribunal deputy president Fred Chaney has also enthused about the claim, calling it an "historic effort by Nyoongar people to reach a united position after a long history of dispersal and dispossession".

Deputy Premier Eric Ripper, who is responsible for native title, has been hesitant to comment on the claim until it is officially lodged.

"But I think more importantly that the Government has to acknowledge that the claims themselves won't be seen as single separate entities, but there will just a united front from the Noongars representing all Noongar people," he said.

The Traditional owners of Land that holds the Ludlow tuart forest are protesting mining in the area, especially where a massacre of some 300 Aborigines happened back in 1841. the WA Government is investigating the information. ***ends***

Bones make mine site sacred: elder

The West Australian
October 14, 2003
By Eloise Dortch

REMAINS of hundreds of Aboriginals murdered by settlers in an 1841 massacre are likely to be disturbed if Cable Sands mines in the Ludlow tuart forest north of Busselton, a South-West elder claims.

Bill Webb, 51, a Wardandi from the Busselton area, has written to Indigenous Affairs Minister John Kobelke claiming the mineral sands company failed to consult properly with Aboriginals.

Mr Webb, of Yallingup's Wardan Aboriginal Cultural Centre, also claims there are at least three scar trees within the tenement.

Scar trees, which bear marks where implements such as spears and shields were cut, usually are regarded as Aboriginal heritage sites and need a Section 18 clearance under the Aboriginal Heritage Act, which, so far, has not been required for the mine. Last month, Environment Minister Judy Edwards approved the mine despite opposition from green groups.

According to the Indigenous Affairs Department, Mr Webb, his mother Vilma Webb and aunt Frances Gillespie were not among nine Aboriginal people interviewed for a heritage report compiled by consultant McDonald, Hales and Associates for Cable Sands in September 2001.

Based on a physical survey, archival research and interviews with the Isaac and Harris families, the report found no Aboriginal sites within the tenement but warned skeletal remains might be unearthed during mine works.

Mr Webb said that in 1841, his grandmother had been tied up at nearby Wonnerup House while settlers, avenging the death of George Layman, who was speared by the warrior Gaywal, massacred up to 300 men, women and children in the tuart forest. He said it was not known where the murdered bodies were disposed of but it was likely their bones were strewn across a wide area. The site was sacred and should be protected.

Mr Kobelke said no evidence had been presented that Aboriginal heritage sites would be disturbed by the mine. "If people do have real evidence of Aboriginal heritage sites, in that mining area, they need to come forward to the appropriate authorities," he said.

An Indigenous Affairs Department spokeswoman said anyone with heritage concerns should write to the registrar of Aboriginal sites

Elders in mine site claims

The West Australian
October 24, 2003
By Cian Manton

SOUTH-WEST Aboriginal elders presented the Government yesterday with what they claim is solid evidence Cable Sands mining in the Ludlow tuart forest will disturb sacred sites.

It includes a map and sketch of a corroboree site in the forest north of Busselton which was done by anthropologist Francois Peron, who was part of an 1801 expedition led by French explorer Nicholas Baudin.

Wayne Webb, a Wardandi who now lives in Walpole, said the site had been used for initiations and marriages and other significant occasions.

"These grounds would have been used for thousands and thousands of years and had thousands of people turning up there each year for the ceremonies," he said. There were also scar trees, which are usually regarded as Aboriginal heritage sites, in the affected forest area.

Last month, Environment Minister Judy Edwards

approved the mine despite opposition from green groups.

A previous heritage report commissioned by the mineral sands company found no Aboriginal sites within the tenement but warned skeletal remains might be unearthed during the mining. If any remains are found mining will be stopped.

The Webb, Harris and Isaac families are calling for another survey.

Indigenous Affairs Minister John Kobelke said: "There has been studies done, consultation with members of the Nyoongar community who claim they are people who have connection to that land . . . and there is no evidence of any heritage sites in the area to be affected by the mineral sands mining. It was up to the families to provide details. "I will certainly not have any sympathy for people who make claims to use it for other purposes and are really abusing what is a very important process to protect Aboriginal heritage," he said.

It is understood he met the families yesterday and told them the evidence would be investigated by the Department of Indigenous Affairs.

The families have also sent a site registration claim to the Indigenous Affairs Department.

Before leaving a very busy WA, we need to look at the claim in the Pilbara and the Mining/Industrial operations in this area.

Interested parties urged to register for mediation

http://www.abc.net.au/news/newsitems

PEOPLE with an interest in a native title claim in the Pilbara, in Western Australia's north-west, are being asked to register for mediation talks.

The Yindjibarndi people are seeking recognition of traditional rights over a 3,000 square kilometre area, 160 kilometres south of Port Hedland.

Pastoralists and mining companies and all levels of government have been encouraged to apply to the Federal Court to become a party to the claim. Native Title Tribunal spokesman Andrew Jaggers says mediation is the first step in the claim process.

"Those talks are aimed at trying to see if there's a resolution, if people's interests can be accommodated and if there can be agreements in place that recognise the Yindjibarndi people and also recognise the interests of other people," he said.

Traditional owners win Pilbara fight

The West Australian
Cian Manton

THE newly recognised traditional owners of a big area of the Pilbara are free to camp, hunt, fish and protect their heritage after an eight- year legal battle ended yesterday.

The Federal Court found the Ngarluma-Yindjibarndi people held non- exclusive native title over more than 20,000sq km surrounding Karratha and Roebourne but excluding the Burrup Peninsula.

It found two other claimant groups - the Yaburara-Mardudhunera people and the Wong-Goo-tt-oo group - did not have native title rights over the area.

But in January the WA Government signed a $15.6 million agreement with the three claimants to smooth the way for the $5 billion development of the Burrup.

The State Opposition yesterday accused the Government of acting prematurely and handing over taxpayers' money to groups which had been found to have no ownership over the Burrup.

Ngarluma-Yindjibarndi spokesman David Daniel said outside the court that Justice Robert Nicholson's decision meant they could look after their country and culture.

"It's a good outcome for all Aboriginal people in WA who fight and put their law and culture in front of everything and it's a great victory for Aboriginal people," Mr Daniel said.

The Wong-Goo-tt-oo group did not succeed in its bid for exclusive rights but was entitled to native title over the area as part of the Ngarluma-Yindjibarndi people.

Wong-Goo-tt-oo elder Wilfred Hicks predicted there would be some disputes between the groups.

One project has been started on the Burrup since the agreement with the State was signed - the $630 million Burrup Fertilisers project.

Deputy Premier Eric Ripper said that under Commonwealth law, claimants had the legal right to negotiate while awaiting a court decision.

"It was unpredictable as to when the court would reach its final determination and in the meantime there were developments that required certainty of access to that land," he said.

Shadow resource development minister Norman Moore said the decision demonstrated a fundamental flaw in native title procedure. He said there should be a provision that if native title was found not to exist, any compensation should not be payable.

Chamber of Minerals and Energy chief executive Tim Shanahan said the Government's actions were understandable in light of the significant commercial pressures to secure an agreement.

Mr Shanahan said the decision was another contribution to emerging definition of native title in Australia.

The Pastoralists and Graziers Association said the decision set important precedents for mining, pastoral and water security issues previously clouded by native title.

Before we move to Tasmania, return to Victoria and travel to where the excitement began, the Torres Strait Islands, we need to look at some further views of the absolute mess that has now been made of Land Rights today. Jackie raises issues that may just help in completing the Social Justice jigsaw.
ends

Indigenous good governance begins with communities and institutions.

By *Jackie Huggins*
Monday, October 13, 2003

WE have reached a pivotal time in Indigenous affairs when for the first time, national attention is being paid to the horror of Indigenous family violence in this country.

For the first time, an Australian Prime Minister has held a summit in the national capital to listen to concerns and ideas on this issue from a group of Indigenous leaders.

For the first time, we are reading editorials about the suffering of Indigenous women and children in our newspapers. For the first time, perhaps we have a chance to do something solid, sensible, sensitive and coordinated to stop the violence that is destroying our communities.

So what does all this have to do with the fundamental issue of native title?

What does it have to do with Indigenous governance?

To answer these questions, let me go back to the preamble to the Native Title Act of 1993.

It begins:

The people whose descendants are now known as Aboriginal peoples and Torres Strait Islanders were the inhabitants of Australia before European settlement.

They have been progressively dispossessed of their lands. This dispossession occurred largely without compensation, and successive governments have failed to reach a lasting and equitable agreement with Aboriginal peoples and Torres Strait Islanders concerning the use of their lands.

It goes on to refer to the High Court's Mabo Decision and the overturning of the myth of terra nullius. And then it shifts from the language of fact, into a promising language of intent:

The people of Australia intend:

to rectify the consequences of past injustices by the special measures contained in this Act, announced at the introduction of this Act into the Parliament, or agreed on by the Parliament from time to time, for securing the adequate advancement and protection of Aboriginal peoples and Torres Strait Islanders; and

- to ensure that Aboriginal peoples and Torres Strait Islanders receive the full recognition and status within the Australian nation to which history, their prior rights and interests, and their rich and diverse culture, fully entitle them to aspire. "

No wonder we were excited.

No wonder we imagined that the return of our traditional lands, and all that that righting of a great wrong represented, would turn things around for us.

And on that basis native title became somewhat of a sacred cow, an area of Indigenous affairs that took on an almost religious status for those involved at all levels and on all sides of the debate.

This was big!

This could change everything.

Yet, here we are 10 years later, having to face the fact that native title hasn't and won't change anything much at all unless we start to see it for what it is and always was - just one piece of the jigsaw of putting things right for Indigenous Australians.

Let me answer the question about what family violence has to do with native title very bluntly by expressing the harsh reality that just because an Aboriginal woman is being bashed on her traditional land will not make the ground any softer when her head hits it.

Good governance provides the link between all these other issues, all these other priorities and concerns that can make native title really mean something to people in communities.

If we are truly committed to the notion of self-determination, we cannot begin to pursue it without instruments of governance.

If we do not have these structures, we cannot engage with government other than on an ad hoc, individual basis that leaves us vulnerable. We cannot engage in partnerships with business, we cannot benefit from the essential nature of our communal identity as Indigenous people.

If we want to acquire native title and manage it for the benefit of our communities, this cannot be achieved without effective governance both during the process of acquisition and once the native title is acquired.

We can't possible hope to negotiate a treaty or any other form of meaningful national agreement if we don't have governance structures that legitimise our side of the negotiation.

Researchers involved in the Harvard Project on American Indian Economic Development started out, some 15 years ago now, with assumptions about what might work and what mightn't in the governance of Indigenous communities.

What is fundamental about the Harvard research is that its findings are counterintuitive.

They defy all assumptions about the foundation of good governance, in particular the assumption that if communities have access to viable economies, if they occupy land with a strong resource base, if they have relationships with mining companies and access to royalties, they surely have all the incentive they need to become healthy communities.

What the research has found is that communities with immediate access to those kinds of resources and supports actually fall over more often than communities that analyse their cultural base and build governance structures upon that base.

Communities that make a conscious decision to go back to the beginning and explore where their institutions are out of sync with their cultures - not only traditional culture but the day-to-day culture of how the community actually operates - are the ones that prosper over the long term.

The direct relevance of this research to native title could hardly be clearer.

For too long, we've operated on the assumption that if you've got native title, your community is going to be OK. But what we've been seeing over the years is that organisations, including native title representative bodies and communities themselves, who have had the responsibility of managing benefits associated with native title simply haven't had the capacity to do it effectively for the benefit of the people.

The caution we have to make about the Harvard work, is that while the research holds important lessons and parallels for Australia, for us to think we can import it outright would be inappropriate and lazy.

Which is why Reconciliation Australia is coordinating a groundbreaking project with BHP Billiton to identify and promote all the different aspects that constitute good Indigenous governance in Australia.

This project has particular resonance at the moment when there is so much attention being paid to Aboriginal organisations being dysfunctional, when there is so much soul searching going on among the Indigenous leadership about the responsibility and legitimacy of that leadership.

Its central focus is to work with Indigenous organisations and communities and, where appropriate, with governments to imbed Indigenous governance as a coordinated, bipartisan, national strategy beyond the electoral cycle that sees policies come and go.

Our hope is that in the first five years, we can build up a body of work that demonstrates the value of working with communities on their own terms and over time to generate sustainable improvements for Indigenous people.

We would hope to prove that good governance leads to significantly improved prospects for economic independence. And also to make it clear that the equation doesn't necessarily work in reverse - economic independence, with or without native title, doesn't necessarily lead to good governance.

We need to be prepared to recognise where native title fits in the jigsaw of reconciliation and Indigenous affairs. We need to recognise where we have not lived up to the promise of the Act.

We need to face up to a failure of imagination and competence.

It is not yet a lost opportunity but it's an opportunity in the process of being lost.

To rescue it and start realising this opportunity for what it is, native title must be liberated from the constraints imposed by legal technicalities so that we can take advantage of the culture of negotiation it created.

This is an extract from a speech given to the 10th Annual Cultural Heritage and Native Title Conference, held in Brisbane on 30 September 2003.

Jackie Huggins is Deputy Director of the Aboriginal and Torres Strait Islander Research Unit at the University of Queensland and co-chair of Reconciliation Australia .

An overseas view that is also prevalent at times here in Australia, concerns the Rights of Traditional Owners over the Green or Environment Movement. Does the greater good or need of Society outweigh that of the Traditional Owners? Wildlife Conservationist Richard Leakey believes it does. I disagree but it is a debate that will continue to come to the fore from time to time.

Land first: conservationist angers indigenous groups

The Sydney Morning Herald
By Rory Carrol in Johannesburg
September 13, 2003

THE wildlife conservationist Richard Leakey has stirred up controversy at an environment congress by saying conservation has to come before the rights of indigenous people.

Protected nature areas were too important to be "subjugated" to people complaining of eviction from ancestral lands in the name of biodiversity, Dr Leakey said at the World Parks Congress in Durban on Thursday.

Indigenous people deserved compensation, but to let them manage the parks where they once lived risked unravelling environmental and economic gains, he said.

Indigenous groups reacted with anger, saying his views were out of step with efforts to redress historical injustices borne by ethnic groups such as the Twa and San.

"Leakey's taking us back to the colonial era," said Edward Porokwa, of Tanzania's Masai.

About 2500 environmentalists are at the congress. Gonzalo Oviedo, of the World Conservation Union, said Dr Leakey's words were a step backwards in the effort to balance conservation with people's rights.

But Dr Leakey said that though colonisation had been a disaster, "long before people there was nature, long before people there was climate change, long before people there were mass extinctions. Of course [there] should be compensation for losing land, but these parks belong to the world".

Delegates from more than 170 countries are discussing how to safeguard the world's 100,000 environmentally protected sites and the conditions of people living in these areas. Some 150 indigenous groups, including the Coica in the Amazon in South America, the San people from Botswana's Kalahari game reserve and the Katu from a national park in Indonesia, are united by a caucus that is using the 10-day > congress to plead for free access and control over the natural resources of their ancestral homes.

At the beginning of the event the Indigenous Peoples Caucus requested special attention for their "expulsion and exclusion" from protected areas.

A spokeswoman, Joji Carino, said the management system of indigenous peoples differed drastically from Western ideas, but had a proven record of sustaining the environment.

"The Western concept of protected areas is that if humans use the resource, they destroy it. But indigenous areas are still the best preserved areas because they use their resources well.

"We depend on it for our survival, which means there is a requirement that we have to protect our resources. We use it mostly for subsistence instead of commercial uses."

Ms Carino cited the example of nomadic groups living in deserts, who stayed on the move to avoid exhausting an area's resources.

The caucus has also expressed concern about mining groups wanting to operate in protected areas, which include national parks and World Heritage sites

The Jim Bacon Government in Tasmania, thankfully, are more receptive to recognising the claims of the Tasmanian Aborigines. Perversely however, the Tasmanian Legislative Council is not and continues to frustrate the wishes of the Lower House. ***ends***

Tasmanian Indigenous centre welcomes land transfer proposal

http://www.abc.net.au/news/newsitems/s952257.htm

THE Tasmanian Aboriginal Centre says the Indigenous community will welcome the State Government's moves towards reconciliation announced in Premier Jim Bacon's State of the State speech this afternoon.

Mr Bacon told the state Parliament he will again push for land transfer to the Aboriginal community, despite the Legislative Council defeating previous attempts back in 2001.

Mr Bacon also announced a review of laws affecting Indigenous cultural practices such as fishing and hunting. The president of the Tasmanian Aboriginal Centre, Phillip Beeton, says while the announcements give heart to the Indigenous community, time will tell if they result in change. Mr Beeton says the main obstacle to the changes is not likely to be the wider community but the state's Upper House.

"We have no problem at all with the general community, I think the community and especially the youth as they're growing up are becoming far more broad minded," he said.

"They're far more conciliatory, they accept difference much easier, I think our problem again is going to be the Legislative Council."

Whilst the Yorta Yorta claim was being forced into a 10 year legal battle, another claim was made by the Wotjobaluk Peoples. The claim was for non-exclusive Title, and no ownership of the Lands resources. This made it much more favoured by the Victorian Government. Tragically, farmers, sporting shooters, beekeepers were hesitant about supporting the claim. The role of the Federal Government was to be expected. Flush with the Yorta Yorta loss, their input was NO, NO, A THOUSAND TIMES NO!. ***ends***

Threat to historic native title deal

THE AGE
By Fergus Shiel
Law Reporter
October 15, 2003

VICTORIA'S historic in-principle native title agreement with the Wotjobaluk people is likely to founder because of Commonwealth opposition.

The Commonwealth has signalled privately that it intends to oppose ratification of the deal in the Federal Court. The ratification would have led to the first native title settlement south of the Murray.

The claim to non-exclusive native title rights to hunt, camp and fish centred on the Wimmera River region is now likely either to go to trial or to be abandoned.

Should the Wotjobaluk drop their claim, sources close to the

case have indicated they could seek a non-native title deal with the State Government recognising their status as traditional owners and granting them compensation and certain land use rights.

But Victorian Attorney-General Rob Hulls said yesterday that the Bracks Government still supported the in-principle agreement. And he warned that if the Commonwealth blocked the deal, as now seemed likely, it risked being bogged down in litigation

"I have and will continue to urge the Federal Government to support the Wotjobaluk people and recognise their special affinity with their land," Mr Hulls said.

Federal Attorney-General Philip Ruddock said mediation of the claim was continuing and the Commonwealth continued to negotiate in good faith.

But Mr Ruddock said it would have to be dealt with within the framework of settled law, a clear reference to the High Court's Yorta Yorta ruling and a signal Canberra does not believe there is sufficient evidence to legally establish native title.

The in-principle settlement reached by the Bracks Government with the Wotjobaluk people last year was the first of its kind. It promised them non-exclusive native title rights to hunt, gather fish and camp along the Wimmera River and covered an area roughly equivalent to 15 per cent of the state.

It guaranteed recognition in an area relating to about 30 per cent of their original claim, including an advisory role in managing national parks and other Crown lands. And it promised freehold title to 45 hectares of land, with which the Wotjobaluk people had a cultural and historic connection.

But the agreement has still be to approved by the Commonwealth and key respondents including farmers, sporting shooters and beekeepers and must be ratified by the Federal Court.

And The Age has been informed that a Commonwealth solicitor wrote to the other parties last month, stating that the Government did not believe the evidence was of sufficient weight to support a consent determination of native title

We return from whence it began, at least as far as the High Court was concerned.

The Federal Government appears to be much more relaxed with the claims of the Torres Strait Islanders than the Aborigines of mainland Australia, including Tasmania of course.

No gold, no oil, nothing much of value. These remain with the Queensland and Federal Government. No worries, let's look good to the International Bodies while we lock up the rest.

The 'Swiss Cheese' decision by the Queensland Federal Court has, however, caused more problems than it attempted to settle.

Native title struggle not over, Torres Strait leader warns

AAP
BRISBANE

MABO Day celebrations in the Torres Strait off far north Queensland were a reminder the struggle for native title was far from over, a community leader said.

Margaret Mau, deputy chairwoman of the Torres Strait Regional Authority, said native title was at the crossroads 10 years after the Native Title Act was introduced. She said every year figures such as Eddie Mabo, James Rice, Father Dave Passi, Sam Passi and Celuia Salee and their families were thanked for their efforts, which had brought about native title.

"It is now our duty to defend what these people achieved for us," Mrs Mau said.

The people of Erub, Ugar, Yam, Boigu and Badu were now at the centre of the struggle for native title.

"Fourteen islands have gained native title determinations in the Torres Strait since 1992, yet all of those communities are now faced with uncertainty as to the strength of their native title once the Federal Court decides on public works," Mrs Mau said.

She said Torres Strait communities should have the right to say yes or no to development without fear of losing their land.

Partial win for Torres Strait Islanders

TORRES STRAIT REGIONAL AUTHORITY
www.tsra.gov.au <http://www.tsra.gov.au/>
14 October 2003

TORRES Strait Islanders are pleased with a partial win in the decision of the Full Federal Court in the matter of Erubam Le v State of Queensland.

The decision has vindicated the Torres Strait's argument that public works built after 23 December 1996 have not extinguished their native title rights in land.

Torres Strait Regional Authority (TSRA) Chairperson, Mr Terry Waia said he expected that traditional owners would be relieved with the Court's ruling for works built after December 1996, however that they would be disappointed with the finding of the Court that works built before 23 December 1996 (the date of the WIK decision) extinguishes native title.

Mr Waia said that he was very pleased that major

infrastructure projects undertaken since December 1996, and all current public works projects, would not extinguish native title but recognised that Torres Strait traditional owners would still be unfairly affected by the decision.

"It's reassuring to know that infrastructure and housing being built now does not extinguish native title, however it's an enormous blow to traditional owners whose homes were built before 23 December 1996 and as a result have lost their native title," he said.

"It will now be up to the State to identify all those areas of land where works were constructed before 23 December 1996 and this is bound to be a difficult and expensive exercise. "In my opinion, any extinguishment of native title by public works on Torres Strait Islander land is unacceptable.

"Torres Strait people have fought long and hard to be recognised as traditional landowners and this mixed outcome goes to prove that current native title legislation cannot deliver the very recognition it was meant to uphold.

"The TSRA and the people of the Torres Strait will now be applying pressure on the Queensland Government to come up with a political solution that will result in full recognition of our native title rights.

"It has been a draining and counter-productive legal battle to resolve a matter that should have never progressed this far. "The Federal Court has handed down a very complex judgement which is in the process of being interpreted by our lawyers.

"Traditional owners will be advised of the full outcome as soon as possible and their consultation will be vitally important in determining how we move on from here."

'Swiss cheese'-style native title ruling

AM - Wednesday, 15 October , 2003
Reporter: Louise Willis

LINDA MOTTRAM: "Swiss cheese" is the term being used to describe the effect of a ruling in a new test case on native title. The case involves seven tiny islands in the Torres Strait.

The Full Bench of the Federal Court has ruled that publicly funded infrastructure built before 1996 extinguishes native title, while works built after that date do not. The effect in this particular case is on Darnley Island where native title exists on one section of land, while it doesn't on another section virtually next door.

Authorities say the case has national implications.

Louise Willis reports.

LOUISE WILLIS: The Federal Court may have cleared up once and for all the issue of whether public works extinguishes native title, but to some the outcome appears more confusing than ever.

GRAEME NEATE: People talk about a Swiss cheese look to these determinations. There are bits of land were native title exists and other parcels that have been cut out of it.

LOUISE WILLIS: Graeme Neate from the National Native Title Tribunal.

Applications for native title determinations on the seven Torres Strait Islands went off to the Federal Court last year, when the Queensland Government and Islanders disagreed on whether the building of public infrastructure would extinguish native title.

Not wanting to threaten their entitlements, the community of Darnley Island halted all public works. Those can now restart, but the Court's decision hasn't entirely impressed the Chairman of the Torres Strait Regional Authority, Terry Waia.

TERRY WAIA: The Torres Strait traditional owner will be unfairly affected by the decision because they wanted it all, not to extinguish native title at all. But I'm pleased with part of the decision because from here on any new infrastructure that will be built will not extinguish native title, and if there is a hospital, new hospital or new community centre need to be built, and knowing that it won't extinguish native >title, the traditional owner will say yes to it anyway.

LOUISE WILLIS: Terry Waia.

The Islands' traditional owners are now expected to resume discussions with the Queensland Government over the native title determinations, while other State and Territories investigate the implications of the decision.

It's the first legal test in this area of the Federal Government's Native Title Act, and academics say it's held up to the scrutiny.

But the "Swiss cheese"-style outcome has James Cook University's Native Title Professor, Craig Jones, questioning the role of the courts in these types of determinations.

CRAIG JONES: In a sense, taking broader legal questions away from the local community, is perhaps a step backwards. So in may view I think negotiation will always get people a lot further than sending matters to court for decisions about law.

LINDA MOTTRAM: Craig Jones, from James Cook University. Louise Willis reporting.

When Prime Minister, Paul Keating fought to have the Native Title Act (1993) made Law, he also set up a Fund to buy Land for those who would have legal problems in

substantiating a claim for their stolen Traditional Lands. Financial and operational Reports of the Federally funded Land Bank, or Indigenous Land Corporation to give it its proper title, are not all that easy to obtain or too understand. The following Report looks at the activities of the ILC over the years, with emphasis on NSW. To suggest that the result is an exercise of criminal futility is an understatement indeed
ends

Land buys failing to help Aborigines

The Sydney Morning Herald
By Debra Jopson
July 7 2003

The federal body set up to acquire land for dispossessed Aborigines has bought 36 NSW properties for more than $32 million, but fewer than 200 indigenous people have directly benefited, according to a review released at the weekend.

The Indigenous Land Corporation, or ILC, spent more money in NSW than any state or territory other than Western Australia, but the properties, totalling almost 170,000 hectares, had directly benefited only 78 Aboriginal occupants and 97 indigenous employees, the review found.

Nationwide, it was originally estimated that about 60,000 indigenous people were set to benefit from 146 properties when the ILC bought them for more than $128.5 million between 1996 and 2001.

But only 1014 lived on the land or derived jobs from the more than 4.8 million hectares - 1 per cent of Australia's landmass - the ILC has bought so far.

"Clearly this was not good enough," says the report by the review team, made up of the ILC's own business enterprise committee, staffers and independent consultants.

The Indigenous Affairs Minister, Philip Ruddock, and the ILC head, Shirley McPherson, said in a statement that the shortfall was "largely due to often unrealistic expectations".

Ms McPherson said the ILC had overhauled the way it operates and introduced a remediation program making improvements on 108 properties that the stocktake revealed had problems.

The 34 NSW properties in line for improvement include Poolamacca, a 50,000-hectare station north of Broken Hill; Tom's Gully, a 104-hectare cattle grazing property near Kempsey; and Jinchilla Gardens, a 12- hectare property 10 kilometres north of Dubbo where cultural tours were envisaged but have not eventuated.

Altogether the ILC has bought about 40 NSW properties. More than half contain cultural sites, while many are used for cultural purposes and social programs

Warren Mundine, a NSW Aboriginal campaigner for better governance in indigenous communities, said yesterday that the team's findings raised serious questions about expecting community groups to control commercial activities.

"We have a lot of people sitting on boards who are not commercially trained," he said.

Mr Mundine said the ILC review revealed there was a need for a change.

Funding bodies should be more prepared to help boost individuals and families in enterprises and not to follow the ILC's mentality of "the bigger, the better".

"If you are looking at getting people out of welfare dependency, you have to integrate them into the economy of their community. That means giving them jobs," he said.

Nationally, the ILC review team found that four in five properties bought were not being used to their full potential, while seven in 10 had no employees and no access to the Aboriginal "work-for-the-dole" scheme, CDEP.

A survey of the groups for whom the land had been bought found that almost six in 10 lacked the appropriate skills and knowledge to manage the acquired property, while three in 10 had a limited commitment to manage the land.

The success of buying to achieve social and cultural benefits, a focus of previous ILC boards, was harder to assess, the team's report says.

.The Last Word

Ray Jackson

The major problem with Land Rights today is that the original idea as first envisioned has been mutated by the current Federal, State and Territory Governments that have moved completely away from unencumbered ownership of Land by Aborigines and Torres Strait Islanders to do with as the Traditional Owners wished to, to a polyglot of wheels, deals and outright rip-offs.

There are now various interpretations of what Land Rights is meant to represent.

We have the part or shared ownership deal that includes access to the Lands but no ownership of resources. The resources ownership belongs to whatever Government or Government Department may be involved.

We have the National Parks scenario whereby the Land is granted to the claimants if, and only if, the Land is handed back under a 99 year lease

We have immense Government pressure and interference being applied to those Traditional Owners to whom Land has been granted to Capitalise and Commercialise the Land to fund Projects, such as Health and Education. These are given as a matter of Civil Rights to all other Australians. I remind Readers of the Remote Community in WA that was forced to drop their Land Rights claim so they could be given a dialysis machine so the Elders did not need to travel to Perth for treatment.

Finally, we have those lost claims for Land Rights that because of Court decisions that are interpreted, and then based upon, Racist and Discriminatory practices by Governments of either shade do not reach the bullshit standards of White Law. Since the Invasion we have not had control of our lives or the decision as to where we would spend that life. Then to add the grossest of insults to the collective injuries, we are penalised for being not only Invaded, but further, for all our collective sufferings and trauma by the Rules of the Invader.

The Political shambles that is called Land Rights today has never been strong. The basis of Land Rights today has been built on a very weak base and this base has been further weakened to the point of being unrecognisable. Any chance of real Justice has been deliberately poisoned since 1996 by the howard Government.

Ten years ago in 1994 the Encyclopaedia of Aboriginal Australia was produced. To know what we had then, to what we have now, examples why we have not moved very far today. With or without the Racist Tactics.

Land Rights

Most Aboriginal people have been disposed either wholly or partly by the process of Colonisation and economic development since (the) European Invasion.

The dispossession, which occurred first on the south-eastern coast, was replicated time and again as the original colony was progressively subdivided into others. The union of colonies in 1901 produced a federal polity, the Commonwealth of Australia, but the state governments retained separate control of Aboriginal destinies until 1967. Following the referendum of that year the Commonwealth gained the power to make laws for Aboriginal people in the states as well as in the federally controlled territories (NT and ACT). Despite its newly one constitutional power and oft-stated intention of protecting Aboriginal Rights, the federal government has consistently failed to satisfy the Aboriginal people's deep-seated desire to regain their Lands and so recover their dignity.

In the absence of national Land Rights legislation, the Aboriginal people continue to face significantly different arrangements for Land Rights in the various states and territories. (This was before the Native Title Act (1993) **rj**). The most comprehensive arrangements are those in the NT, where the Aboriginal Land Rights (NT) Act 1976 has resulted in 482,868 sq, kms. or nearly 36% of the total land area reverting to Aboriginal ownership under freehold title. Significantly, the NT Act was federal legislation. It provided for Aboriginal Land Councils; two of the four NT Land Councils, the Central and Northern, are among the nation's most significant Aboriginal political organisations. State Land Rights legislation has seen significantly less Land reverting to Aboriginal ownership – a total of only 187,830 sq. kms. or 3% of the area in the six states held freehold in 1990, with an extra 138,482 sq. kms. (2.2%) held leasehold.

The state's record on Land Rights is abysmal. South Australia is the only one to have passed a substantial proportion (19%) to Aboriginal ownership – all in the dry north. Western Australia failed to produce Land Rights legislation after the 1983 Seaman Aboriginal Land Inquiry had raised Aboriginal expectations. Its 1985 Land Rights Bill was defeated in the state parliament's conservative upper house, following intense lobbying from mining interests. After this the government allowed resident communities to apply for 99- year leases to Aboriginal reserve Lands, which amounted to 202,220 sq. kms. or 8% of the state's area. Victoria is another case where a conservative upper house rejected Land Rights legislation. Four former reserves have been transferred to Aboriginal freehold title, but two of these transfers had to be made under federal legislation after the upper house refused to pass the relevant bill. The Tasmanian Government brought an Aboriginal Land Bill before parliament in 1991, but the upper house rejected it and it was then dumped altogether when a conservative government was returned in 1992.

The NSW government passed a Land Rights Act in 1983, following which many

regional and local Land Councils were established; but by 1990 only 507 sq. kms. of freehold and 842 sq. kms. of leasehold land, a total of 0.16% of the states area, mostly former reserves, had been converted to Aboriginal title. The land claim process under the NSW Act, which applies to certain categories of Crown land, can be characterised as an administrative one. The State Department of Lands has rejected many claims on the grounds that there are intended public purposes for the Land claimed.

In Qld. The Bjelke-Petersen government for many years refused to allow Aboriginal corporations to acquire pastoral leases. It then introduced its system of Deeds of Grant in Trust in 1983. this allowed groups on reserves to exercise a form of 'ownership' at a level well short of freehold title. By 1989 the amount of Land under actual freehold title was a paltry 5 sq. kms! since then a Labor government has enacted the Aboriginal and Torres Strait Islander Lands Act of 1991. these Acts provide for inalienable freehold title over Lands held under DoGiT and permit claims (within a 15-year 'sunset' period) over non-urban, vacant Crown land and national parks. However there is no fund for Land acquisitions and the Governor in Council may override community decisions in relation to mining development. The last of these provisions outraged the state's Aboriginal community, provoking a huge protest at the state parliament.

The very uneven and fitful pattern of state action on Land Rights falls well short of what the National Federation of Land Councils (NFLC) demands. The NFLC position is that the governments should recognise the Sovereignty of the Aboriginal people and their prior ownership of Australia; acknowledge their right to claim all unalienated Land, including public purpose Land; affirm their right to control access to Aboriginal Land, to refuse permission for mining and other developments there, and to negotiate the terms and conditions under which approved developments can take place; facilitate the conversion to unalienable freehold title of all properties held by Aboriginal people; permit the excision from pastoral leases of adequate Land for subsistence and residential purposes for the Communities living on the pastoral properties; and compensate the people for their lost (Stolen **rj**) Lands and the social and cultural disruption they have suffered.

Starting with the Woodward Aboriginal Land Rights Commission in 1973, the federal government has gone some of the way to meeting some of those demands. The Aboriginal Land Fund Commission, the Aboriginal Development Commission and most recently ATSIC have followed programmes directed towards buying back Aboriginal Lands on behalf of Traditional owners. The total passed over to the Aboriginal owners under various forms of title, however, remains a fraction of the amount dispossessed. The figures in 1990 were 8.7% held as freehold, 2.2% under leasehold and 2.6% comprising former missions and reserves transferred to Community supervision – i.e., only 13% of Australia (is) held by its Traditional Owners. *The Encyclopaedia is produced by the Australian Institute of Aboriginal and Torres Strait Islander Studies.* .

Whilst some could or would argue that much has happened over the last decade I merely say two things. The first is that what we have now falls well short of the demands made by the NFLC, and secondly, I would argue that what we have finished up with after the Racist Trickery also falls far short of Land Rights,

And howard talks of Reconciliation?

Talking of Reconciliation, the next Newsletter theme will be on the So-called Practical Reconciliation outcomes for Education, Employment, Health and Housing. Thank you GW for your good formatting. ***Ends***

On 25 November 2003 the Association held its sixth Annual General Meeting – not bad for an organisation that came out of the frustration of, then, transpiring events in the old Aboriginal Deaths in Custody Watch Committee; and which was never thought, by others, to be a possible survivor in Social Justice issues for Aboriginal and Torres Strait Islander Peoples.

The greatest loss arising from the demise of the original Watch Committee was the loss of its Deaths in Custody Library, reportedly the best in Australia at that time, and the loss of the Deaths inCcustody files and reports.

But on a more positive note we now have a full Executive and they are as follows:

Ray Jackson – President and Public Officer

Ross Fowler – Aboriginal Vice President

Frank Mulheron – non-Aboriginal Vice President

David Allan – Treasurer

John Murray – Secretary

Ms Margaret Walker – committee member

Ms Anne Duffy-Lindsay – Committee Member

We thank all for their attendance at the meeting and remind all that their membership for 2003-2004 is now due.

And as we are not a funded body, we rely on our membership and donations.

For those of you reading this who would like to become a member, we have a range of membership options from Corporate, to NGO to personal membership, both waged and unwaged

Paid membership such as this allows us to ensure automatic, free Associate Membership for all inmates in gaols and detention centres and allows us to supply free copies of Djadi-Dugarang to our Associate members

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VALE FRIEND

It is with great shock and sadness that I write on the Life of Yaluritja, known also as Clarrie Isaacs, artist, activist, and Nyungah Elder, Custodian of his Land.

He left us on Wednesday, 26 November, 2003, having died in his sleep. He was born 4 September 1948, lived proud as a Nyungah man and he has now joined his warrior ancestors.

55 years ago a strong fighter for the struggles of his people was born. Still with so much to give, he was a product of the racist times of his youth. The health discrepancies that caused his early death was but one of the Social Justice issues that he devoted his life to change on behalf of his people.

An early understanding of the need to work in solidarity with others also fighting for those issues brought him into early contact with activists in the Trade Unions, in Politics and in the Aboriginal Struggle.

Yaluritja was the activist's activist. His innate sense of knowing the correctness of his support remained his life's purpose. Perhaps his most well known protest was that against the WA Labor Party and the Swan Brewery site. During the Goonininyup (Swan Brewery) protests he camped there for 200 days. Some 14 years after the dispute he continued to protest, as a matter of principle, at the site every Tuesday morning.

His life was, and became, the struggle. He visited Libya, Saudi Arabia, Indonesia, among other Countries, always arguing the Aboriginal Cause. He addressed the United Nations and many other Bodies on Racism and the Social Cancer arising from that Racism.

He became very much involved with the Aboriginal Provisional Government and yet was not blinded to the Political Parties of today. He supported the Socialist Alliance and stood as their representative during the last Federal Election. Every action was taken to move away from the Conservative and Colonialist actions of Liberal or Labor Governments.

With all that activity, he was a strong Family man. He was a Father and a Grandfather and one of 27 Brothers and Sisters.

It was in that spirit that I was fortunate to meet Yaluritja during the protests against the Olympics in Sydney in September, 2000.

Prior to the beginning of the Games, he, I and many others were camped in Victoria Park at Broadway, Sydney. He was a softly spoken man but this only belied his intensity for Justice. We spoke, as our paths crossed but on one occasion he did not join Aunt Isobel Coe and others in a Dawn Service at La Perouse.

It was a bright morning and we sat near the Sacred Fire. I informed him how much I had valued his talk at a Public Meeting some days earlier and our discussion naturally turned to the issues of the past, present and future for Aborigines. He spoke not of what he had done, that was the past. He spoke of what he wanted to do, now.

He spoke with a quiet but determined passion for what he knew to be Right. I sat next to him, and accepted without any argument, that I was privileged to have at last met him, he whom I had read so much about. He asked me to "come and see me' should I ever get to Perth. Sadly, I never did. The Politics of the Park were not the Politics we would have wanted, but we stayed anyway.

Robert Eggington, CEO of the WA Aboriginal Artists Association, in conversation with Jim Duffield, a long time friend of Yaluritja, (who named Jim, 'The General'), absolutely encapsulates the Life of Clarrie Isaacs.

"He showed people that they could see the forest - if only they moved out of the shadow of the tree."

Yaluritja, my ngoon, (brother), may your journey be moorditj bibbulman.

To his Wife, Children and Grandchildren, Mother, Brothers and Sisters – all of the Family – ISJA and I extend our sympathy at this sad time.

For Koori Justice.
Ray Jackson,
Wiradguri