

Note: Where an item also appears in other newspapers, etc, an asterisk (*) will be used. People are invited to contact the Native Title Research Unit at AIATSIS if they want the additional references. As usual, NTRU will try to provide people with copies of recent newspaper articles upon request.

Ad = Advertiser (SA)
Age = The Age
Aus = Australian
CM = Courier Mail (QLD)
CP = Cairns Post
CT = Canberra Times
DT = Daily Telegraph
FinR = Financial Review
HS = Herald Sun (VIC)
KM = Kalgoorlie Miner
IM = Illawarra Mercury
LE = Launceston Examiner
Mer = Hobart Mercury
NNTT = National Native Title Tribunal
NTA = *Native Title Act 1993*
NTN = Northern Territory News
QNT = Queensland Native Title News
SC = Sunshine Coast Daily
SMH = Sydney Morning Herald
Tel M = Telegraph Mirror (NSW)
WA = West Australian
WAus = Weekend Australian

NEWS FROM THE NATIVE TITLE RESEARCH UNIT

There are a number of conferences coming up that are relevant to native title. Members of the Native Title Research Unit will be participating at some of these and will endeavour to report.

AIATSIS, in collaboration with the Indigenous Law Centre of the University of New South Wales, will be organising a session of the Australian Anthropological Association Annual Conference, being held at UNSW from 10-13 July. The session, on conceptualising Native Title will be held on Saturday 10 July over two 90 minute blocks and will feature papers by Mick Dodson, Jocelyn Grace and Peter Sutton, followed by a workshop for open discussion. Papers from the session will be published.

Later in the year, the Australian Linguists Association are holding a native title workshop. The flyer is included with this newsletter.

A reminder that Volume 2 of Regional Agreements: Key Issues in Australia is now available from AIATSIS.

This will be the last newsletter prepared by Penny Moore. We thank Penny for her stewardship of the newsletter over the past two years and wish her well in her pursuit of new challenges.

Current Issues

Reconciling through Understanding

Here are some thoughts on this issue, hope you like it.

The significance of the native title process extends beyond legal and political struggles. It is in fact a process to reconcile vastly different systems of knowledge and worldviews. In the past researchers from many disciplines have 'researched' Aboriginal and Torres Strait Islander peoples, cultures and way of life. These researchers have stood on the verge of this Indigenous domain and have made observations, taken notes and then stepped back into their domain to explain this society through books, articles, films and lectures.

The current process of developing native title claims operates in this same framework. It all started when the principle institution, the Courts, the very backbone of western culture and society was forced to admit that the society of which it is a part has acted in breach of its own rules. The Court was then faced with the challenge of enforcing these rules in an unbalanced political, social and economic environment steeped in ignorance. The legal institutions do not understand Indigenous society, it does not understand their relationship with their land, their belief systems, their history. In the struggle to comprehend these societies and culture the Court firstly turns to its own knowledge base. It seeks precedents from other jurisdictions with which it shares a common ancestry. It looks at the bodies of knowledge within its domain developed from the process of researching the other. Armed with all this knowledge it then pronounces Indigenous people in Australia have rights to land based on certain principles. The entire native title process then uses the principles founded within the familiar domain to understand and articulate the rights of Indigenous people to their lands, often tempered with a balancing of the social, political and economic interests.

Indigenous people are then faced with the problem of asserting diverse rights to country based on their particular social, cultural and historic circumstances. This may lead to attempts to streamline or transform the relationship to country enjoyed by a particular society and group. In this scenario the diversity of experiences and cultures in Indigenous Australia are sacrificed to ignorance and convenience.

Indigenous knowledge systems exist, are completely self contained and have sustained themselves right across Australia for two hundred years. When you start at this point then all the issues surrounding native title, recognition, sovereignty etc are placed into context. Then one will understand that extinguishment of native title, loss of native title all those yardsticks set up by the Courts to explain why people can't get recognition of rights to land are irrelevant. Indigenous people enjoy a relationship with country that exists outside the western legal system and can only be truly enjoyed from within that society.

In researching, preparing and presenting Indigenous assertions of rights over country one can never be content to follow legal precedent. Each and every application for a determination of native title rights and interests must be argued in terms of the society and culture from which the people derive those rights. This means stepping away from the 'familiar' and seeking to understand what makes this group who they are and how their culture has sustained rights to land over the centuries. This requires the divesting of cultural baggage and biases about real cultures, lost cultures and importantly pushing the limits of understanding and knowledge within the 'mainstream' legal and intellectual traditions.

The challenge is to ensure that the Western system does not ride roughshod over the Indigenous system. This means getting away from false concepts like the fragility of Indigenous rights and culture. The diverse cultures have survived and sustained themselves through well over two hundred years of oppression and as Australian society moves into a new and enlightened millennium our culture, society and systems of knowledge can only blossom and grow.

Kado Muir

Visiting Research Fellow/Manager, Native Title Research Unit, AIATSIS