

ANTaR is concerned that recent native title decisions, the Miriuwung Gajerrong decision in Western Australia and the Lightning Ridge decision in New South Wales, raise a critical question about whether the idea of partial extinguishment has a place in Australian native title law. If the answer is yes, then the consequences are very serious. The law could grant recognition of native title with one hand only to take it away with the other. Alternatively, the Court could opt for a principle of 'minimum necessary harm' under which leaseholders' rights prevail, and inconsistent native title rights are suppressed but not extinguished. That way, when those leases expire, full native title can revive if traditional connection persists. ANTaR is currently communicating these issues to the community.

To get more information about ANTaR or to join your local ANTaR group

1. Log onto our website at www.antar.org.au
2. Phone us

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Recent publications

The publications reviewed here are not available from AIATSIS. Please refer to individual reviews for information on obtaining copies of these publications.

Native Title in Australia, Richard H. Bartlett, Butterworths, Sydney, 2000. Since its recognition by the High Court the development of native title law within Australia has been so rapid that it has precluded the development of an encompassing text dealing with legislation and legal practice. The result has been a large body of information with no means of approaching the topic with any ease.

Native Title in Australia represents the most comprehensive analysis of native title within Australia to date and provides a well structured means of approaching and understanding native title law.

The book provides a fascinating insight into the development of native title within Australia. It charts this development not only in terms of the case law and legislation, but also the social and historical forces which have influenced the expression of native title law within this country.

The book is divided into 7 sections: The Background, The Nature of Native Title, Extinguishment and Validation, Future Dealings, Resource Development and Traditional Pursuits, Institutions and Jurisdictions, and a comparative section on overseas case law and legislation. These sections are further divided into 28 chapters. All cases and statutes are tabled and cross referenced with the relevant paragraphs in the book giving the reader the opportunity to check on primary sources of information.

The theme stressed by the author, and reiterated at regular intervals throughout the book, is equality before the law for those involved in native title. The conclusions drawn by the author are such that legislation, as it stands in Australia, falls well short of this basic principle.

Native title law developed rapidly and recent decisions in the Federal Court have shown that this is a trend that is likely to continue. Despite this, *Native Title in Australia* is a book which will remain a valuable resource well into the future.

Native Title Report 1999, Report No.1/2000, Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, Sterling Press, 2000.

Social Justice Report 1999, Report No.2/2000, Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission, Sterling Press, 2000.

The annual *Native Title* and *Social Justice* reports of the Aboriginal and Torres Strait Islander Social Justice Commissioner Dr William Jonas were tabled in Federal Parliament on 6 April 2000. They are available from the Aboriginal and Torres Strait Islander Social Justice Unit at HREOC (phone 02 9284 9600, fax 02 9284 9611, email atsisju@hreoc.gov.au). They reveal the inadequacies of Australian government policies and practices in effectively dealing with ongoing discrimination against Indigenous people. Both reports recommend a revised approach to Indigenous equality. 'We need special remedial measures to overcome historically-entrenched patterns of racial inequality, as well as active

intervention to protect the distinct cultural characteristics of Indigenous communities.'

'Public debate on Indigenous issues has often been divisive, scape-goating Indigenous people as somehow being "privileged" and enjoying "special treatment" compared to the general population. The reality could not be further from the truth,' said Dr Jonas.

Native Title Report

The *Native Title Report* considers the implications of the March 1999 decision of the Committee on the Convention on the Elimination of All Forms of Racial Discrimination (CERD) which found that the Federal Government's 1998 amendments to the *Native Title Act 1993* are in breach of Australia's obligations under the Convention. The report concludes that the guiding principles of equality and effective participation have been eroded by the Government's amendments and diluted by an ever expanding labyrinth of State legislation. The Report also has chapters on State regimes, the registration test and native title representative bodies. A full copy of the report can be found at http://www.hreoc.gov.au/social_justice/native_title/index.html

Social Justice Report

The *Social Justice Report* focuses on Indigenous young people. Indigenous youth experience many of the issues faced by the broader community. These community issues are reviewed from a human rights and social justice perspective, a discussion of the specific issues that affect young Indigenous people follows. The five chapters are: Introduction (focusing on current themes in Indigenous policy); Indigenous young people and human rights; Identity; Bilingual education; and, Mandatory sentencing and Indigenous youth. A full copy of the report can be found at

http://www.hreoc.gov.au/social_justice/social_justice/index.html

Short Guide to Native Title. National Native Title Tribunal. 2000

The National Native Title Tribunal has produced this plain language guide to explain the key native title concepts, the role of the Tribunal and to answer some commonly asked questions. The guide is available free from the Tribunal. Copies can be obtained on freecall 1800 640 501.