

expressions of well-being in Aboriginal health research and practice, mapping the shared terrain: Indigenous and non-Indigenous concepts of landscape, developing a mutual relationship between theory and practice in a framework for dealing with culture and conflict, sharing language: making dictionaries for Indigenous languages.

There are three registration types – full, AIATSIS Members, and full time students or unemployed concession. Costs vary from between \$100-\$260 for a three day registration and from between \$50-\$125 for one day registration.

For more information on the AIATSIS Conference, or to register, visit the Conference website at www.aiatsis.gov.au and click on the 'AIATSIS Conference 2004' link.

Indigenous Research Forum

The 6th Indigenous Research Forum is hosted by the Umulliko Indigenous Higher Education Research Centre at the University of Newcastle. This year's theme is 'Centering Indigenous Voices in Research' and will take place from 29 November - 1 December 2004.

The forum is intended for Indigenous researchers and academics to present their research or works in progress, to provide an opportunity and a space for Indigenous researchers to get together, to allow Indigenous post-graduate students to meet and discuss issues relevant to them, and to explore culturally appropriate expressions of research outcomes.

For more information call (02) 4921 6863 or go to: <http://www.newcastle.edu.au/centre/umulliko/irf2004/>

AAS Conference

The Australian Anthropological Society Annual Conference is being held at the University of Melbourne from 28 September – 1 October 2004. This year's theme 'Moving Anthropology: Motion, Emotion and Knowledge' includes a session on challenges for anthropology in native title practice.

More information is available from: <http://www.anthropology.unimelb.edu.au/AAS/>

FEATURES

Yorta Yorta Co-operative Land Management Agreement

Henry Atkinson

Spokesperson for Council of Elders, Yorta Yorta Nation

The peoples of the Yorta Yorta Nations struggle for a voice was ignored long, long ago, long before any thought of the coming together of clans to officially form the Yorta Yorta Nation.

The Yorta Yorta peoples had put approximately 19 petitions/claims, including ones to King George V, the Governor of NSW, Victorian Authorities and ruling bodies, for not only land but for compensation, acknowledgement as traditional owners of their coun-

try and the right to self determination. This was going back as far as 1860 and even before this time the Indigenous peoples wanted their land back, to be able to live as they had done for many thousands of years.

Regardless that all members of the Yorta Yorta Nations were accepted by Western definition as belonging to the Yorta Yorta, the Western Law would not accept the peoples of the Yorta Yorta adapting to their culture whilst still retaining what remained of their own culture after the policies of assimilation and integration had decimated them. So what was left for my people who were deemed as not belonging and our very being 'washed away with the tides of history' by Justice Olney. Were we to give up? How many years must we fight for what is morally and legally

ours? The Yorta Yorta Nation were not about to give up.

So onward we marched and right into the Victorian State Government through the Department of Justice and the Attorney-General. None of this would have been possible except for the assistance of some people who supported the Yorta Yorta and could help us in opening doors. This was all the Yorta Yorta needed.

An agreement between us, the government and/or other affiliated organisations was always a possibility and this was a next avenue to gain rights and acknowledgement to our country, through negotiations. The State Government could not, within the law as it now stands, agree to the Native Title Act, but it could come to an agreement. One must acknowledge the Bracks Labor Government of Victoria in following through with an agreement with the Yorta Yorta Nation outside of litigation.

Signing the Agreement

After 3 ½ years of commitment by unpaid Elders and others, came the historic joint signing of the Yorta Yorta Co-Operative Land Management Agreement, between the Victorian State Government and the Yorta Yorta Nation. The main objective of the Yorta Yorta peoples was to be recognised in a binding agreement, with this now being achieved we can begin to move forward.

On the 10th of June 2004, the Victorian State Government signed the joint body agreement, the Yorta Yorta Co-operative Land Management Agreement with the Elders of the Yorta Yorta Nation. The banks of the Murray River at Echuca, Victoria, the traditional land of my people the Wolithiga, (Wolithi-c-a) was the place chosen for the signing of this historical event.

The agreement signifies a long awaited step taken by my people with the State of Victoria in reaching a genuine understanding and acknowledgment with the traditional owners of country. Co-operation between the Yorta Yorta and the Victorian Government is the

way to secure a working relationship for the benefit of all.

Crown land and waters are subject to the Yorta Yorta Co-operative Land Management Agreement with areas including Kow Swamp, Barmah State Park and Barmah State Forest, along sections of the Murray and Goulburn Rivers – a total area of approximately 50,000 hectares.

This agreement recognises the Yorta Yorta people's connection to their traditional land and waters and values the Yorta Yorta people's involvement in planning, management and protection of the environment. This Co-operative Land Management Agreement will enable the Yorta Yorta Nation to provide training and good employment for our people with the input of approx. 1.4 million dollars.

The joint body agreement represents a landmark in the State of Victoria for involving Indigenous peoples in the management of their traditional country outside of the native title process. It also acknowledges the Yorta Yorta Nations cultural connection to country and creates a partnership on recognition, mutual respect and shared goals.

This agreement will form a body which will include three government representatives who, with five Yorta Yorta representatives will listen to the concerns of the Yorta Yorta Nation through its Council of Elders. Any concerns can then be carried to the government if need be.

Out of this the first agreement for the Yorta Yorta Nation and the Victorian Government will come more agreements with phase 2 already on the drawing board. Phase 2 is called The Aspirations Document which will be a non-land management agreement consisting of funding and resources which will enable the Yorta Yorta peoples to have complete say over their assets such as the Dharnya Tourist Centre, the Yenbena Education Centre and Yeilema Farm which are now in desperate need of maintenance and care due to lack of funds.

The Yorta Yorta aspirations are to have a society which is economically viable and to provide ongoing employment, training and management, thereby enabling self determination and sustainability for future generations. Creating our own economic base with employment and training, at last acknowledged and recognised as people in our own right and not being beholden to the welfare system, we will see improvements in health, wellbeing and self respect, thus enabling some of our people to get off the welfare merry-go-round.

Eventually it is hoped by the Yorta Yorta Nation to have an even greater say in traditional country with legislation to go hand in hand with caring for country.

My people are genuinely excited by the prospect of entering a new era built on a solid foundation in which a holistic government approach can be taken to not only land and water management but all of the Yorta Yorta people's broader aspirations. This agreement does not take away any political and legal rights of the Yorta Yorta peoples to access native title which may occur in the future.

Johnny Jango & ors v Northern Territory of Australia & ors **An Anthropologist's Comment**

James F. Weiner

Visiting Research Fellow, Native Title Research Unit

In 2003-04, Sackville J considered three reports submitted on behalf of an application for native title determination over Yulara township in the Northern Territory. The respondents to the application, "depending upon how one counts... made at least 1,100 separate objections to passages" in the two anthropology reports (at 7). Sackville J opined that "each of the reports, in particular the Yulara Anthropology Report, has been prepared with scant regard for the requirements of the *Evidence Act 1995* (Cth)..." (at 8).

Of the largest and main document, the Yulara Anthropology Report, authored by Peter Sutton and Petronella Vaarzon-Morel, Sackville J

complained, "Indeed it is often difficult to discern whether the authors are advancing factual propositions, assuming the existence of particular facts, or expressing their own opinions" (at 11). Lindgren J dealt with this issue last year in the Wongatha native title application (*Harrington-Smith v Western Australia* (No. 7) [2003] FCA 893, where he suggested that lawyers should be "involved in the writing of reports by experts" (*Harrington-Smith* at 19), an opinion with which Sackville J strongly agreed (*Jango* at 10). Sackville also cited *Commonwealth v Yarmirr* ([2001] 208 CLR 1), where Gleeson CJ, Gaudron, Gummow and Hayne JJ said the anthropological report submitted on behalf of that application had been received in evidence "despite it being a document which was in part intended as evidence of historical and other facts, in part intended as evidence of expert opinions the authors held on certain subjects, and in part a document advocating the claimants' case" (*Yarmirr* at 62 [84]).

I wish to offer a specifically anthropological, and hence a partial, perspective on this case, although arguably it is anthropology's role in the native title process that is the main subject of this judgement. I consider two issues.

First, the *Evidence Act (1995)* admits opinion when based on a specialised field of knowledge (s. 79). Consider, however, the anthropologist in the field, attempting to observe everything that is happening in the social life of the community s/he is living in. Anthropological analysis occurs in the back-and-forth movement between the apprehension of the whole of social life and its component individuals, groups, objects and events. How does either the anthropologist, or subsequently, the Court, go about separating which observations are specifically anthropological and which are not? Although this distinction is probably more sustainable under conditions of native title research when the anthropologist is neither co-residing for long periods with a community, nor engaging in open-ended observations and questioning, a great deal of previously-obtained observations and analyses of Aboriginal society recently and currently examined in the Courts were ob-