

Western cultures can learn from these ways. But learning takes humbleness and an equalization of power and control.

We want the PBC to be an interface between the Western world and the Aboriginal world. The PBC should be run by the old people as decision makers who are accountable to the people according to traditional values. We want young people working there too, educated in the Western way to make sure the PBC has the capacity to be an interface and a 'gateway'. Anyone who enters our land should have to go through the PBC - a permit system. We want to control what non-Aboriginal influences come in and profit from them. This was our original concept.

I believe we need to restructure the PBC according to traditional law, selecting our representatives from Dreaming groups. This is partly why we have had governance issues as we have always had Western people with their structures, ideas and world views imposed on us instead of our long-proven, universally understood structures

I want to say something positive about native title. Our people are happy to receive acknowledgement and recognition of our ownership. However, if you apologise to someone but don't change your behaviour, then it's just lip service. And if you give someone native title but don't give them rights or power, then it's just lip service again.



Source: National Native Title Tribunal

Solid work you mob are doing: New Report on Indigenous decision making and conflict management



Members of the project working group and speakers at the launch of the report.

L-R: (Back) Warwick Soden, Robin Thorne, Prof Mick Dodson (Chairperson AIATSIS), Prof Murray Kellam AO (Chairperson NADRAC), Chief Justice Black (Federal Court), Hon Robert McClelland (Federal Attorney-General), David Allen

L-R; (Front) Helen Bishop, Juanita Pope, Rhian Williams, Louise Anderson, Gaye Sculthorpe and Toni Bauman.

On Friday 4 September the Federal Court of Australia hosted the launch of a new report on Indigenous dispute resolution and conflict management in Australia which was prepared in collaboration with AIATSIS.

The report "Solid work you mob are doing": Case studies in Indigenous Dispute Resolution and Conflict Management in Australia', was presented to the National Alternative Dispute Resolution Advisory Council as part of the Federal Court of Australia's Indigenous Dispute Resolution & Conflict Management Case Study Project.

The report, edited by Juanita Pope and Toni Bauman, contains three principal case studies and several smaller 'snapshot' studies. It draws upon these studies to make recommendations for effective dispute resolution practices.

The Hon Professor Murray Kellam AO, Chairperson of NADRAC, the Hon Robert McClelland MP, Commonwealth Attorney-General, Professor Mick Dodson, Chairperson of AIATSIS and Chief Justice Black

spoke about the report, its findings and its recommendations.

The report is available to download here:

http://www.fedcourt.gov.au/aboutct/aboutct_pubscorp.html

Reflections on Women and Native Title

By Cynthia Ganesharajah, Research Officer and Pip McCourt, Aurora Intern

The role of women in native title processes is an area which has received limited attention in native title literature. In some circles, there exists a predominant view that women have been excluded from native title in Australia, that they are marginalised, inadequately represented and play minimal roles in negotiations.¹ A key question is whether this view is based on the lacunae in native title literature rather than an examination of past and present native title processes.

As Ciaran O'Faircheallaigh highlighted in his presentation to the Native Title Conference 2009, many women have played a prominent role in native title and mining agreement negotiations both in Australia and internationally.² In particular, O'Faircheallaigh discussed the strong and influential participation of women in the Argyle Diamond Mine negotiations in the Kimberley region of Western Australia.³ In considering the role of women, he pointed out that it is important to look beyond the people who are sitting at the negotiating table. Just because women are not the public face of native title negotiations does not mean that they have had no input into or influence over the native title claim.

¹ See for example G Gibson and D Kemp, 'Corporate engagement with indigenous women in the minerals industry' in C O'Faircheallaigh and S Ali (eds) *Earth Matters: Indigenous peoples, the extractive industries and corporate social responsibility*, Sheffield, UK, 2008.

² C O'Faircheallaigh, 'Indigenous Women and Mining Agreement Negotiations in Australia and Canada', presentation to the National Native Title Conference 2009, Melbourne, 5 June 2009.

³ Ibid.

Women may often be involved in setting the agenda for negotiations and the ongoing implementation of native title agreements.

It is important to acknowledge that the potential exists for women to be under-represented in native title processes. This potential stems, in part, from the misunderstanding among some non-Indigenous persons that men hold primary responsibility for land in Aboriginal societies. Early anthropological research into Aboriginal society in Australia was primarily conducted by male anthropologists working with Aboriginal men and tended to view women as the primary bearers of cultural and spiritual knowledge.⁴ However, the work of a number of influential anthropologists and researchers has allowed a greater understanding of the key roles that Aboriginal women hold in these areas, even when it is not immediately visible to outsiders.⁵

Because of these assumptions, non-Indigenous people involved in native title may fail to recognise how Indigenous women can and should be involved. This has had implications for the methods and mechanisms through which women present evidence in litigated claims in both the native title and land rights frameworks. Some have argued for a more flexible approach to evidence laws so that Aboriginal women have the opportunity to speak and show evidence on *their* terms.⁶

According to O'Faircheallaigh, another interrelated, but slightly different, factor is the nature of the processes surrounding native title. A process which is inclusive, 'open', and mobilises the entire community will provide opportunities for women to get involved. It will also have a significantly positive impact on the benefits generated by a native title agreement.⁷

⁴ C Wohlan, *Aboriginal Women's Interests in Customary Law Recognition*, Background Paper 13, Law Reform Commission of Western Australia, Perth, 2005, p.515

⁵ See for example D Bird-Rose, '[Women and Land Claims](#)', *Land, Rights Laws: Issues of Native Title*, no. 6, January 1995; M Langton, 'Grandmother's Law, Company Business and Succession in Changing Aboriginal Land Tenure Systems,' in G Yunupingu (ed) *Our Land is Our Life: Land Rights Past, Present and Future*, University of Queensland Press, St Lucia, Queensland, 1997, pp.86-87; and D Bell, *Daughters of the Dreaming*, McPhee Gribble, Melbourne, 1983.

⁶ Bird Rose, *ibid* p.7.

⁷ O'Faircheallaigh, above n2.