Articles:

*A Place for Indigenous Economic Self Sufficiency in a Reconciled Australia*

Leah ARMSTRONG – is Executive Director of Yarnteen Aboriginal & Torres Strait Islanders Corporation.

Indigenous economic self-sufficiency in my view has not received appropriate policy development and strategic thinking. Although there has been a number of reviews undertaken, and currently there is yet another Indigenous Business review being done, no government has attempted to quantify what is needed in an Australia wide context.

The title of this discussion paper and the seminar title highlight an important opportunity for Aboriginal people and governments; that is of “Strategic Thinking”. The Harvard Project on American Indian Economic Development found dependency and powerlessness have long undermined strategic thinking among Indigenous people. Faced with short terms of office, frequent political turnover and endless streams of organisations looking for relief, leaders tend to look for quick fixes for development problems. Strategic thinking around economic development must examine not only the assets and opportunities but of priorities and concerns. It means asking:

- What do we want to see on our land in our communities in fifty years time?
- What kind of society are we trying to build?
- What do we need to change or create?
- What do we want to see on our land in our communities in fifty years time?

*Recent Developments in Joint Management of Aboriginal Owned Land in New South Wales and the Register of Aboriginal Owners*

Warwick BAIRD – is a legal consultant. In 2000 he was acting Registrar of the *Aboriginal Land Rights Act* 1983 (NSW) (“the ALR Act”).

And Rachel LENEHAN – is a Senior Project Officer in the Office of the Registrar, *Aboriginal Land Rights Act* 1983 (NSW), employed since 2000 to coordinate the establishment and maintenance of the Register of Aboriginal Owners.

... In this paper the authors consider this and other recent developments in the implementation of Part 4A of the NPW Act (referred to as statutory joint management). The focus is on the early stages of the process leading to statutory joint managements, particularly the establishment of the Register of Aboriginal Owners. While any review might properly include some observations on the success of jointly managed areas in meeting Indigenous interests as well as conservation interests this is beyond the scope of this paper. The areas of land that have been successfully placed under statutory joint management are too few to make any comprehensive review of the operation of joint management in New South Wales. Once more areas of land come under statutory joint management in New South Wales such observations, and a comparative analysis between those areas and other areas where joint
management regimes are in place such as Uluru and Kakadu, is likely to prove of great benefit.

**Our Institutions in a Reconciled Australia**

Larissa BEHRENDT – is Professor of Law and Indigenous Studies and Director of the Jumbunna Indigenous House of Learning at the University of Technology, Sydney. She is also the Director of Ngiya, the National Institute of Indigenous Law, Policy and Practice.

Roberto Mangabiera Unger, the world-renown critical legal scholar, wrote: “It is true that we cannot become visionaries until we become realists. It is also true that to become realists we must make ourselves into visionaries”. There is much truth in that sentiment and I think it is a useful mantra to guide an exercise such as the one I am undertaking in this paper in which I have been asked to provide some thoughts about what Australia’s institutions (legal, political and bureaucratic) would look like in a reconciled Australia.

The first challenge in thinking about this question is, of course, what that ‘reconciled’ Australia” would look like. I argue in my book, Achieving Social Justice, that there is much common ground about the aspirations of Indigenous communities and that the tensions and divisions are much more focused on the strategies about the best way to achieve that vision. The example I used there was one that compared Geoff Clark and Noel Pearson. In his Ben Chifley Memorial Lecture, Pearson criticised the way in which welfare dependency had kept Indigenous people in a subordinate position. A few days later, Geoff Clark, as Chair of the Aboriginal and Torres Strait Islander Commission, announced that he would seek an extra $245 million a year to be allocated to Indigenous health from the federal health minister.

These two approaches caused one reader of the Sydney Morning Herald to write a letter to the editor comparing the two men:

“Could Noel Pearson, and Geoff Clark, as portrayed in today’s Herald be representatives of the same people? Pearson’s so poignant and positive – as aligned to Clark’s bellicosity”

However, if one looks past the media sound-bites, both Indigenous leaders share the part of a similar vision but they are emphasizing different aspects of what should be conceptualised as a complementary agenda rather than, as often portrayed, a conflicting and oppositional one.

**The Aboriginal Justice Advisory Committee’s Report on Aboriginal Women Offenders**

Larissa BEHRENDT – is Professor of Law and Indigenous Studies and Director of the Jumbunna Indigenous House of Learning at the University of Technology, Sydney. She is also the Director of Ngiya, the National Institute of Indigenous Law, Policy and Practice.

... Indigenous women are the largest rising prisoner population in the world and New South Wales has the highest imprisonment rate. A report commissioned by the Aboriginal Justice Advisory Committee, Speak Out Speak Strong, found that 31% of all women in prison are Indigenous. They are predominantly young (average age 25), have low levels of education and high levels of unemployment. Sixty per cent of the survey had been convicted
of a serious offence and 36% had their first convictions recorded between the ages of 11 and 12. Ninety-eight per cent of the offenders had prior convictions as adults; 26% had between 15 - 30 previous convictions and 75% had been incarcerated previously. Most were single mothers with between two to four children of which they had the primary care. They were often also responsible for other, non-biological children and for older relatives.

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**Art From the Inside**

**Ken CANNING (Burraga Gutya)** – is an Academic and Cultural Advisor at Jumbunna Indigenous House of Learning at the University of Technology, Sydney.

Aboriginal Art has been an important part of the survival of our Peoples since the dawning of time. Our laws, our beginnings and the very fabric of our societies have been passed down through countless generations. Art took many forms, such as dance, paintings and the telling of our past events by people who were gifted in this area. Paintings were on bark, in sand, done in clay and on rock, such as caves and designated rock surfaces. Each painting told of the particular group’s lives. From these paintings our People could read the travels of our spirit creators, the events that shaped the group and where food and water were plentiful. In this sense paintings were a means of reading a message. Dancing has always had the same impact, that is, to convey the messages of an important event. Our traditional storytellers were considered to be educationalists, so the text of their stories not only told of special events, but had very strong moral values attached to them.

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**Ten Years Since Mabo – Native Title at Mer**

**Ron DAY** - is Chairperson of Mer Island Community Council.

... I am proud that Meriam people have contributed to changing the history of Australia for all Indigenous people. Through our long battle all the way to the High Court, Meriam people gained legal recognition not only of our traditional system of land ownership but recognition for Indigenous native title across Australia.

It has now been 10 years since the High Court held that ‘the Meriam people are entitled as against the whole world to possession, occupation use and enjoyment of the Island of Mer...” and first introduced native title into the Australian legal system.

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**Responses to the Sealord Deal – Fishing for Insights**

**Jason De Santolo** – researched most of this paper while working at the Umulliko Indigenous Higher Education research Centre, Wollotuka, School of Aboriginal Studies, University of Newcastle and is currently based at the Jumbunna Research Unit, University of Technology, Sydney.

Aboriginal and Torres Strait Islander peoples of Australia are entering into a more intense period of agreement making with non-Indigenous organisations, companies and
The Tide of History or a Trace of Racism? The Yorta Yorta Native Title Tragedy

Benjamin LANGFORD – is a law student at the University of Technology, Sydney who is currently working as a journalist in Darwin.

... Under the law of native title as constructed by the High Court in Mabo (No.2) and the Native Title Act 1993 (Cth) (NTA), the “traditional laws and customs” of Indigenous claimant groups “give rise to” the unique form of landholding that is native title. In the Yorta Yorta determination, it was ruled that this connection with the land through traditional laws and customs needed to be continuous. The Yorta Yorta people were held to have failed to demonstrate the continuous of these laws and customs.

In this essay I will examine the case at each stge of its progress to the high Court, with particular attention on the court’s interpretation of the “tradition” requirements in the NTA. I will argue that the court’s interpretation of these requirements to demand a continuity of practiced tradition amounts to a demand that Aboriginal people remain locked in an unchanged pre-1788 definition of culture if they are to succeed in a native title claim. I will also examine international treaties for guidance as to a better approach that could be enshrined in Australian law.

Special Treatment – The Representation of Aboriginal and Torres Strait Islander People in the Media

Ruth McCaustland – was formerly a Policy Officer at the Anti-Discrimination Board of NSW, and the author of the ADB report Race for the Headlines: Racism and Media Discourse, 2003. She is currently a Research Fellow at Jumbunna Indigenous House of Learning, University of Technology, Sydney.

Australians turn to the mainstream media to gain information, analysis and reasoning about events and issues on a daily basis. ‘The News’ has a powerful and permeating influence on how we all understand and make sense of the world around us. Notions of ‘objectivity’ and ‘fact’ in media tradition belie the reality that the experiences and values of those who work in the media influence the way events and issues are portrayed. Like many Australians, those who work in the media may have ill-informed or prejudiced views of the historical and current experience of Aboriginal and Torres Strait Islander communities. Although there are many commentators, opinion columnists and others who make overtly racist statements about Indigenous people, racism in the media also manifests in more subtle ways in everyday media practices of newsgathering and the narrative structures of news reportage. There is an institutional racism in the media, an entrenched culture that represents issues and people in particular ways. It is as much about what is not reported as what is. Whether deliberate or unconscious, those working in the media have the power to marginalise and construct
Indigenous communities as ‘other’; as associated with criminality or conflict. This power comes from the capacity to make connections, to represent events or issues in the context of pre-existing prejudices. This article explores the relationship between media reporting, political rhetoric and community attitudes, and the impact on Aboriginal and Torres Strait Islander people – from the way that legislation and policies concerning Indigenous people are formulated, to the way that Indigenous people are treated on a daily basis in the street, in the workplace, at school, and in the community.

Racism and the Law

Cleonie QUAYLE – is Course Coordinator, National Indigenous Legal Studies, Tranby Aboriginal College.

... As the NSW Aboriginal Land Council observed an opinion poll that surveyed the general population about whether Indigenous people should be entitled to native title, it went 'do you support native title?' the majority answered 'no', 'do you understand what native title is?' the majority answered 'no'. This continues to astound me that people are so readily available to object to something they don’t understand, or even worse, don’t try to understand.

In 1993 after listening to talkback radio and other commentators, the publicity section of the NSW Aboriginal Land Council set out on the task of educating people about Native Title, taking out ads in the Australian and Sydney Morning Herald, and trying to get as much media coverage as possible, but we realised the crux of the problem wasn’t about whether people were educated or not, but the majority of people were quite happy to remain ignorant to ensure that Aboriginal people didn’t get something for nothing, or more than them, so our campaign shifted to educating people that “Racism Sux”.

Towards More Effective Governance for Australian Indigenous Organisations – Values Contracts for Boards

Russell TAYLOR – is CEO of the NSW Aboriginal Housing Office, but was Principal, Australian Institute of Aboriginal and Torres Strait Islander Studies, and Director, Australian Indigenous Leadership Centre when this paper was presented.

From a broad social perspective, the nature and pace of recent social, cultural, economic, environmental and political change, collectively, make it impossible to overstate the importance of governance. The exercise of effective governance impacts at all levels of society and plays an essential part in our lives and communities and our capacity to cope, survive and prosper.

Broadly, governance structures and processes:

- Represent community and organisational members’ welfare and basic human rights;
- Create and enforce policies and laws;
- Administer essential programs and deliver services;
- Manage human, land and cultural resources; and
- Facilitates negotiation with governments and organisations.

How well such structures and processes perform these functions has a direct effect on the strength and well-being of the entire community.
Native Title at Mabuiag: The Experience of Goemulgaw Since Recognition

John WHOP – is Chairperson Goemulgaw (Torres Strait Islanders) Corporation.

After the Mabuiag Island Native Title Determination celebration, the interest and enthusiasm of Goemulgal people were still very high. However, in the years following our Native Title Determination 2000, people started to become frustrated. There were many land and infrastructure development projects that were happening at Mabuiag at the time. These included plans for a new general store, staff accommodation and a proposal to establish a new sports field. Goemulgal very much wanted to participate constructively in these projects.