

# Uncovering the Ideology of Native Title

Lecture: David Ritter explores why ideology is absent from the Native Title Debate

By Katie Mitchell

Ideology can serve as a firm foundation from which belief, perspective and opinion can grow and it can give a context in which these beliefs, perspectives and opinions can be understood by others. However, revealing the ideological basis for your beliefs and ideas can also be viewed as creating a hole in your armor, a weak spot through which others can more easily attack your ideas and your arguments. The role of ideology in Native Title was the topic of a lecture given by Mr David Ritter to the Castan Centre at Clayton on 18 October. David has a strong grounding in Native Title issues, having worked as the first Associate to the inaugural President of the National Native Title Tribunal, Justice Robert French. David also has a diverse research profile and is currently a part-time doctoral candidate in history and law, researching the role of key institutions in Native Title as well as the ideology which drives them.

David suggested that 'we use ideological classification to make sense of the chaotic world of human content over power', however he noted that the most influential expressions of the virtues of Native Title are expressed in ways 'that deny their ideological foundations.' One consequence of this denial is that the ability to properly debate Native Title becomes 'conceptually stunted.'

So why has ideology been removed or hidden from the Native Title debate? David identified three central reasons. First, the perception that Indigenous connections to land are 'organic' or 'natural' lead people to believe that 'an ideological basis of support for Native Title appears superfluous.' Second, the 'legalistic and overwhelmingly process orientated' nature of the Native Title system serves to hide the 'ideological undercurrents' of the claim. The legal processes set the limits for what should be discussed and explained, meaning that the ideologies of those supporting and opposing the claim are not aired. Third the opposition to Native Title is often deliberately framed in such a way that it appears 'value free', using a legal, rather than ideological, framework.

A consequence of this shrouded ideology is that individuals and groups with opposite standpoints on Native Title can articulate their perspectives using the same language and expressions. This adds an extra layer of confusion and 'corruption' to the debate surrounding Native Title, as little of the actual bases for people's standpoints are revealed. David suggests these views would be 'better understood as a product of the interaction of a range of discernible ideological positions.' This stems from his belief that this would open up the space for a meaningful and valuable discussion of Native Title, both in specific cases and as a general concept. David further proposes that by incorporating ideology, we avoid restricting the discussion of Native Title to its legal definition but can include and give voice to what people believe Native Title 'should or should not be.'

The varying conceptions and understandings of Native Title within the Indigenous community, as well as the variety of reasons for which members of the community support Native Title, were also flagged by David. He suggested that it is difficult to locate a single Indigenous perspective in this spectrum of positions. Bearing this question in mind, he then asked the fundamental question of how Indigenous representative bodies ensure that they represent 'Indigenous people' in the face of these competing perspectives. He also noted that over the period on which he is focusing 'Indigenous leadership drew upon shifting ideological rationales for Native Title.' He suggested that 'throughout [1994-2004] Indigenous leadership has been reactive' and these reactions have generally been expressed in the 'language of the conqueror.' He suggested that these shifting responses can be viewed in a number of distinct stages, the most recent of which has been triggered by the High Court decisions in *Ward, Yorta, Yamirr and Wilson v Anderson*. These cases have initiated a new chapter in which dissatisfaction with the judiciary and the legislature has driven 'Indigenous leadership to seek both broader political settlements and increase[d] emphasis on local agreement making.'

Taking the discussion of ideology a step further, David gave an example of the ideological positions which may be put forward in support of Native Title. These are economic progressivism and cultural preservation. He then highlighted the tension which results when these arguments are 'simultaneously pursued', noting that such tension results from the 'obvious underlying disjunction between tradition and modernity.' He noted the incredible difficulty faced by Indigenous people in straddling this junction, quoting Hal Wooten, who stated that if individual Indigenous people 'are to find a satisfying and dignified place in the modern world [they] have to resolve a lot of painful conflicts and dilemmas and make difficult compromises in their personal and community lives.'

In concluding his lecture, David noted the current state of disillusionment associated with Native Title. He suggested that this could be, at least in part, attributed to the absence of ideology. Inherent in this failure to identify ideology is the absence of a space to discuss or identify the lack of 'logically coherent means of achieving the desired end.' Thus rather than adapting to the current trend of being anti-ideological, David suggested that the way forward for Native Title may lie in uncovering, articulating and discussing the ideology driving those in support of the doctrine.

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