

Amendment Bill 1996 (No 124) by Diane Smith. This paper focuses on how the Native Title Act has been practically implemented, highlighting difficulties and outcomes to date. The foreshadowed amendments to the right to negotiate are then critically assessed, including: the proposed exclusions mechanism; the conjunctive right to negotiate and 'project acts'; parallel processing; compulsory acquisition powers; Ministerial intervention; and the new claims registration test.

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4. Significant people in the development of Native Title legislation

Tributes were made in October to two of the landmark figures in native title - Eddie Koiki Mabo and Justice Lionel Murphy, whose questioning of the *terra nullius* doctrine was one of the factors which finally bore fruit in the Mabo (1992) overturning of the principle and the development of native title legislation.

The University of Queensland Press' biography of Mabo by Noel Loos and Koiki Mabo traces his development as an activist from the late 1950s when he left Mer and took a job on the mainland with a Queensland Railways construction gang and became interested in trade unionism. By 1962 he had a public profile and in 1967 organised a seminar in connection with the Referendum. In that year he took a job as a gardener at James Cook University in Townsville where he met academics such as Loos and Henry Reynolds, and began lecturing to white students in Loos' race relations course. Mabo's fight for his land began in the early 1970s when he was told that in the eyes of the Australian legal system the outer islands of the Torres Strait were Crown land. Koiki Mabo died of cancer only months before the seminal land rights judgement was enacted in his name.

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5. Review of Aboriginal Councils and Associations Act Report

The 'Review of the *Aboriginal Councils and Associations Act 1976*' Report has now been finalised. This report has major implications for native title in view of the need for all prescribed bodies corporate to be incorporated under the Act. Copies of the final report are available by contacting the Assistant General Manager, Strategic Planning and Policy Branch, ATSIC, PO Box 17, Woden ACT 2606, Ph (06) 289 3318, or Fax (06) 285 3603.

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NATIVE TITLE IN THE NEWS

(Note: Where an item also appears in other newspapers, etc, an asterisk (*) will be used. People are invited to contact the Native Title Research

Unit at AIATSIS if they want the additional references. As usual, NTRU will try to provide people with copies of particular newspaper articles on request.)

Aus = Australian
Ad = Advertiser (SA)
CM = Courier Mail (QLD)
CP = Cairns Post
CT = Canberra Times
Fin R = Financial Review
HS = Herald Sun (VIC)
Mer = Hobart Mercury
LE = Launceston Examiner
NTN = Northern Territory News
SMH = Sydney Morning Herald
Tel M = Telegraph Mirror (NSW)
WA = West Australian
WAus = Weekend Australian
KM = Kalgoorlie Miner

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The race and history Debates

October - November 1996 has been dominated by public debate arising from the claims made by Pauline Hanson in her maiden speech in the House of Representatives on 10th September. A major outcome of the debate over Mrs Hanson's call for a cessation of Asian immigration and statements on Aboriginal affairs was a joint party declaration in the House of Representatives on 30 October. This declaration condemned racial discrimination and reaffirmed the commitment of the House to the process of reconciliation with Aboriginal and Torres Strait Islander people.

A spate of analyses of these developments by prominent historians and politicians ensued. Peter Cochrane, a senior lecturer in History at the University of Sydney, in an article in *The Australian* on 10 October, wrote that Hanson was revisiting the past by calling for a string of trademark Menzies policies including discriminatory immigration, monoculturalism, and grand-scale national development projects. Like Menzies, she is

'basing her career on a constituency of allegedly "forgotten people" - this time the Anglo-Celtic majority, working class battlers, vernacular Australia with its vernacular heritage... The talk about Aboriginal and ethnic privileges, the calls for equality and so on are a lament for the time when Anglos saw only their own reflection on the world around them, when they and they alone had a sense of "homely belonging" in this country....Hanson's potency rests not only on racism abut on a powerful sense of cultural loss - of displacement from the centre of things - which has been worked readily into a mythology of victimisation.'

The same monoculturalist attitudes appear to underly Mrs Hanson's speech and the current attack on native title legislation. A few days after Cochrane's article, Henry Reynolds in an article in *The Age*, discussed the

threat to Australia's overseas standing arising from the attack by Pauline Hanson and other Parliamentarians on the reconciliation aspects of native title legislation. According to him, the Mabo decision was seen as 'a sign that Australia has finally shed its racist and discriminatory heritage... For those close observers of the local scene, such developments as the reconciliation process, the engagement with Asia and the promotion of multiculturalism all point in the same direction. This reassessment has been of profound importance and more significant than many of the more deliberate Australian actions on the world stage.'

The question of how Australians should respond to the facts of our history was raised by the Prime Minister in his Sir Robert Menzies lecture on 18 November. He raised the question of guilt, and whether living Australians are responsible for the past, lamenting that 'some of the curricula go close to teaching children that we have a racist, bigoted past.'

Noel Pearson, former Chairman of the Cape York Land Council responded by stressing that the Mabo judgement is based on the contemporary view of Australian history which incorporates Aboriginal people. He stated that while Mabo has thrown the country into social, political and social turmoil, this in his view is a necessary part of redressing the legacy of the past. Pearson emphasised that there have been considerable borrowings between Aboriginal and non-Aboriginal Australians, and that Aboriginal people are not urging guilt on the Australian people. He reiterated Paul Keating's words at Redfern Park in December 1992: 'Down the years there has been no shortage of guilt but it has not produced the responses we need. Guilt is not a very constructive emotion. I think that what we need to do is open our hearts a bit. All of us.'

Pearson's warning is that if the Government's amendments to the native title legislation succeed, 'the spirit of compromise and moral reckoning which Mabo represents will be lost to us and to future generations.'

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CLAIMS

NSW

Crescent Head [NNTT Ref# NC#94/5]

The NSW Government will pay Crescent Head Aborigines some an initial \$738,000 in compensation as part of Australia's first successful mainland native title application. The outcome, which was a mediated solution, involves the Dhungutti people allowing partial development of 12.4ha of land in return for compensation for the Government's sale of the land without establishing whether native title existed over it (*CM, 10 October, p5*).*

Justice French said that the two years taken to resolve the Crescent Head claim was speedy compared with experiences in New Zealand and Canada (*Newcastle Herald, 10 October, p6*).