

REVIEW OF THE NATIVE TITLE ACT –PROBLEMS

Native Title:

1. Native title is about customary law, belief, values, traditions, practice, cultural and intellectual property.
2. Why is the expert witness, deciding who is primary Traditional Owner for country?
3. Why is the expert witness, deciding who has not got right or interest for country?
4. Why is the expert witness, deciding what or how traditional owners have right and interest for country?
5. Why is the expert witness, deciding who has cultural and intellectual property right and interest?- is he now an expert in this field?
6. Why is the expert witness, deciding who owns story for country, sacred sites and sacred objects?
7. Why is the expert witness, deciding who owns traditional ecological knowledge for country?
8. Why is the expert witness, merging three(3) distinct tribes under one claim area –however, the expert is giving no clear delineation of the traditional property boundary for each of the proposed three claimant groups.
9. Why is the expert/NTRB, basing Wangkajuturu NT assertion on the affidavit of [REDACTED] who state that [REDACTED] is asserting her country for [REDACTED] going back down south of the NT Claim area – hence; the legal question-if that is Jenny's traditional country why are the Wangkajuturu on the current claim area?
10. Why is 130+ years of Commonwealth/State records that quantify as evidence as per the Evidence act, clearly support our oral law/lore and customary practice that place our occupancy on one country and only on that one country?-what weighting is giving to the expert opinion/field notes vse commonwealth/state record and our living oral custom
11. If the expert is the authority to expel or dispossess or exclude/isolate and or exterminate a race of people of their cultural and intellectual property right as a secular system of an inherent right to identity, sense of place and sense of being –where is the fiduciary obligation of the commonwealth of Australia? (you may as well hand over the legal judgement dealing with NT to the so called expert to do the commonwealths job of upholding law and natural justice.)
12. If we are dispossessed of our inherent cultural and intellectual property, then is the matter of real property loss now subject to just terms in payment of compensation for our loss? - is it the Expert , NTRB or the commonwealth/state who will be responsible for fair and just terms dealing with compensation ?

Native Title Representative Body/Legal Service:

1. Why are the native title party not all treated with integrity and fairness?
2. Why is the NTRB, not being held accountable for immediate dispute resolution instead of delaying our course of seeking legal redress for over a year (12mths+).
3. Why is the NTRB, not being fully transparent with evidence supplied,- hence withholding evidence only to use certain material to justify other NT parties.

4. Why is the NTRB, biased/selective in dealing with NT applicants, especially when questioned about fairness, duty of care and the integrity of their expert witness/lawyers?
5. Why is the NTRB, used to control access of financial capital to source other legal service providers /advice, especially when they are challenged or opposed?
6. Knowingly that there is the nature of a void of legal uncertainty or no confidence in their expert/s witnesses (engagement of 3+ anthropologist) hence seek further validation of additional service providers and further expenditure of tax payers money to justify a quick resolution for the NTBR - why is this opportunity not been offered to us
7. Why is the NTRB, more favoured as credible over the NT applicant?- are they not set up to help us inclusive and not being biased by engaging with a selective group or family ?
8. Why is the NTRB, challenging/opposing us in our assertion of right and interest – and then on the other hand stating that we can seek help from the NTRB.
9. Why is the Commonwealth funding body – inferring that we must go to the NTRB and exhaust all avenues to fix our problem; of which we have done only to be opposed by the NTRB/lawyers –and thus we still cannot secure any financial /legal capital or assistance to address our appeal/dispute.
10. Why is the NTRB acting as a law unto themselves and not to be answerable to anyone else; except the funding authority that pay them to provide a service to anyone that assert native title right and interest.

Registra /Office:

1. Why is the registra, inferring expertise in Native Title and Cultural sovereignty?- this act is deemed unfair and unethical
2. Why is the registra, imposing an expert characterisation status, associated with native title party, history, heritage and or Aboriginal pastoral association/occupation – this act is deemed to be an unethical act of professional /government gate keeping ?
3. Why is the registra, showing poor regard to the integrity and goodwill of full commitment to addressing the Federal courts administrative policy and service delivery?- this act is deemed unethical and recklessness creating unnecessary burden of stress and failure to address procedural fairness.
4. Where is the goodwill and duty of care?

Expert Witness-Anthropologist:

Are they culturally competent to understand Aboriginal Values, customs, traditions and belief?

1. What legal system is used to scrutinise the integrity of the expert witness?
2. What legal system is used to scrutinise the evidence of the expert witness?
3. What legal system is used to scrutinise the evidence of native title party or the individual?
4. What legal system is used to scrutinise, if the evidence presented will meet the standards of the evidence act?
5. What legal system is used to scrutinise the expenditure of the expert witness and to audit how and what the tax payers money is being used or spent on?- is tax payers money being

expended accordingly and diligently?(I don't support shopping and fishing a legitimate expense)¹

6. What legal system is used to address legal redress, just term and fair compensation for the ill treatment or unethical act of indecent intent or unfair treatment?
7. Why is there two apical ancestors for one family? – a father and a daughter
8. Why is there an apical ancestor on a claim area that is not their prescribed claim area?²

Judge

Are they culturally competent to understand Aboriginal Values, customs, traditions and belief?

1. Justice [redacted] expressed, a limited degree of understanding in our assertion of interest prescribed in the nature of a pure primary right of customary law, value, belief and custodial occupancy bound in cultural and intellectual property?
2. Is the legal practitioner, coherent and mindful of Australia's obligation to the United Nations covenant on indigenous people's rights and interest in their judgment?
3. Is the legal practitioner giving full regard of Aboriginal people's cultural and intellectual property right and interest?
4. Is the legal practitioner giving full regard to our spiritual belief, occupancy and its interest aligned to physical element of country, water, sky, energy, flora and fauna which infer customs and overall wellbeing that help sustain our conservation economy and longevity of our society.
5. Judge [redacted] was seen to be very supportive of our argument, until the other (5) lawyers presented a case law⁴ that dismissed our appeal. -how much taxpayers money was used to pay the five legal/professional practitioners to attend one day in court?
6. The appeal process we participated in, was ruled that a single judge /judgment could not allow for us to appeal the adjournment /interlocutory application- How can this be qualified as a form of natural justice especially when there is no grounds for legal redress of a wrongful judgement that will forever disposes a race of people from a secular system of an inherent property right and interest including identity, value, beliefs and occupancy.
7. Judge [redacted] granted a copy of the transcribe for both hearings free of charge and also ordered that the court refund our application fees.- this clearly demonstrate problems of inefficiency and poor regard being exercised in the legal process dealing with joinder/interlocutory application processes.

The legal practitioners of the State:

Are they culturally competent to understand Aboriginal Values, customs, traditions, belief and the property association that tie cultural and intellectual property and interest as a universal structure of Aboriginal property title.

¹ See expert affidavit time spent with one family

² See H.Page affidavit

³ See attached affidavit/appeal doc harbour /Hill

⁴ See transcribe harbour/hill

1. Is the legal practitioner/s culturally competent?-how are they determined competent?
2. Is the legal practitioner/s coherent and mindful of Australia's obligation to the United Nations covenant on Indigenous people's right and interest in their judgment?
3. Is the legal practitioner/s giving full regard of Aboriginal people's cultural and intellectual property right and interest?
4. Is the legal practitioner giving full regard of Aboriginal people's traditional ecological knowledge, subject to property right and interest?
5. Is the legal practitioner giving full regard to our spiritual belief, occupancy and its interest aligned to physical element of country, water, sky, energy, flora and fauna which infer customs and overall wellbeing that help sustain our conservation economy and longevity of our society?

Land Council /Lawyers:

Are they culturally competent to understand Aboriginal Values, customs, traditions and belief?

1. Where is the legal practitioner's integrity and duty of care? –
2. Why is the NTRB, referring selective NT parties to benefit with external legal representative and not offering same opportunity to others?-
3. Why is the NTRB, offering some NT party members financial support and not offering the same opportunity to others with the same integrity? -
4. Why is there a high turnover of staff/legal practitioners in the NTRB –especially when NTRB infer how much money is spent on specific NT party – if so please explain and show the actual amount of monies spent on each member, as this will surely give a true statement of an itemised financial expenditure of tax payer's money.
5. Why is the NTRB, inferring that they are doing us a favour and we should be grateful – this act is unethical and is deemed to be just an economic opportunity to keep the legal and so called experts in employment at the expense of a legal burden of Aboriginal peoples fight to protect our cultural and intellectual property right and interest.
6. Why is the NTRB inferring a discriminatory act against my brother because of the colour of his skin and how he looks? – this is direct racial discrimination.

Financial expenditure:

1. Why is the court inferring that a minority of NT party that is appealing be the major cause delay and wasting tax payer's money within NT/court proceedings?- we work we pay our taxes, which supplement NTRB's who are set up to help everyone who assert NT .
2. How much is spent on Land Council Staff?
3. How much money is spent on legal practitioners and professionals?
4. How much money is spent on anthropologists?
5. We recommend an audit undertaken to itemise the expenditure of all monies spent on NT .- hopefully to see what monies and where the money was spent.
6. Why is some expert witness reports accepted and some not?
7. Why are expert witnesses payed to corroborate connection material to dispute the material of another expert witness- are they not all trained in the same qualification?
8. Who scrutinies the collaboration of expert/s and their process and their material data- as it could be deemed to be another form of financial gain and self-gratification of the so called expert?

9. Where is the legal forum, to safeguard the integrity of what is deemed legal evidence and how it is gathered and how it is presented? – What guarantee is given to protect the cultural and intellectual property right of Aboriginal people of Australia?

Time constraint:

Why are the courts inferring that the native title party is the cause of major delays in native title processes?

1. - Especially as we are subject to the dealings of the Native Title Representative Bodies and we do not manage the money or have say in how it is spent or who they contract.
2. Native title is subject to a variable of legal uncertainty – hence; legal practitioners try to frame cultural law/lore to be subject to their interpretation of Australia's current laws and regulations, of which many legal practitioners apply an economic convenience of case law to justify their gain and tie to Australian law.
3. The case laws seem to be used more as a tool of economic convenience within court of law – hence; some case law has no real substantive justification when a housing property law case is used to acquit an appeal in the nature of a Human Rights, regardless of a secular system of Aboriginal value, law, belief, occupancy; including our cultural and intellectual property right and interest associated with country.
4. Are we a commercial product of time and space within a construct of a legal system or are we not recognised as a part of a living universe system were we coexist as a Human Race who make up the people of the first nation?

Procedural Fairness:

Why is the pursuit of truth and evidence not given every opportunity to be heard?

- 1 Why are we being judged on a procedural policy, inferring a principle of lateness as a catalyst for deliberate delay in determination? –hence; inference was not about the importance of meeting the requirement of the Evidence Act, that substantiate our truth of assertion and protection of our right and interest subject to the Commonwealth NTA.
- 2 Why are we being judged and burdened to produce evidence that is held by the State and Commonwealth?- this is imminent in effecting causal delay of accessing evidence to validate our oral knowledge of identity, birth, occupancy, death and continuity of history, heritage and the inherent right to use, take, keep and enjoyment of cultural and intellectual property right and interest associated with land , water, minerals, flora and fauna.
- 3 Why is the inference placed upon us, the NT party; as the principle problem user effecting delay and an unquantified and unjustified expenditure of tax payers monies –however; transactions in the course of a non-transparent economy of legal and professional services/providers have gained profitably from NT business. –some cases are well over 15years, giving a stable course of economic benefit to legal/professional practitioners with very minimal benefit to the legacy of our people.

Ethical conduct:

Where is the respect for our Identity and Human Right?

1. Why are we judged on our ability to adapt communication tools and technology to prepare court appeals/interlocutory application as a medium that differentiate us from not being a true Waluwarra Aboriginal person that has a secular tie, that existed prior to and post colonisation .
- 2 Why is my brother in-law judged on the colour of his skin?
- 3 Why is my brother in-law excluded from asserting his customary right, because of no direct bloodline? – Our culture and its survival of longevity has a customary law that has no tolerance for indecent acts of incest.
- 4 Why is the Commonwealth NTA and the NTRB and expert quantifying a society as being descendent from one apical ancestor? –is the commonwealth NTA / NTRB and so called expert condoning incest?
- 5 Why is 351 pages of commonwealth records and affidavits, that meet the standards of the evidence act given less weight then the economic convenience of 301 case law?
- 6 Why is it that we have raised our dispute for well over a year⁵- with no immediate dispute resolution, and having no financial capital or legal representation to obtain legal and cultural redress? –hence were made to feel as though we were guilty of a crime that caused delay and in justice, in order for others to receive a benefit.
- 7 Why are we being judged as adopted with property right and interest and not being recognised for our primary sovereignty for our people and our country?
- 8 Why is our grandparents recognised as having W [REDACTED] right and interest; however, their parents are not having the same W [REDACTED] right and interest. –even though the expert opinion is highly likely that they are W [REDACTED] but he will not admit, because he states a lack of evidence⁶.
- 9 All we wanted was for the court system to take the time to properly hear our story and see the truth and validation of our evidence.

Conclusion :

The NT process has too many flaws, which has placed an extreme social and financial hardship on our family. Who are honest and hardworking taxpayers that struggle to keep a balance of social and emotional wellbeing?

The NT and NTRB in its current status, take away our right as a Human being, that is, to respect our right to make our own free choice about who is authorised to help us.

Where is our constitutional right to be given fair treatment and compensation for the loss we have suffered and endured-what steps are now put in place to ensure we will grow as a strong people with proper right and interest for country.

⁵ See affidavit harbour/hill letters ,emails

⁶ See attached affidavit/interlocutory application

We fight the cause of injustice done to our ancestors and family – and we also speak of the truth that tell the story of the sacrifices and the contribution they have made to sustain the pastoral industry and burden of government institutionalisation that controlled each and every one's life.

They were coerced in a system of unpaid labour for the government and was remunerated with a measly ration of flour, tea, sugar, tobacco, rum and when award wages were gazetted they receive very minimal to nothing of their payment subsidy and as a part of the commonwealths fiduciary obligation placed under protectorate within a reserve system of control to manage their wellbeing. .

However; throughout the course of colonialism our cultural system has survived the adversity of unlawfulness and indecent intent that has and continues to burden us with an existence of destruction, isolation, exclusion and genocide.

We have and continue to maintain our cultural integrity that has sustained our Identify, our sense of belonging and sense of place.

We live within a cultural framework that embrace a conservation economy which has helped to sustain the longevity of our culture for millennium, - so in order to quantify and qualify our worthiness as title holders and occupancy it must be properly recognised of the customary beliefs and practice that direct our life time commitment kinship systems that we honour as a lawful and decent intent that has supported the biodiversity population density and sustainability of natural resource , - which can clearly be measured against the decline of our biodiversity, and destruction of our country since colonisation.

The other matter of concern is how we are judged on current practice associated with environmental and natural resource management as being something different and introduced by colonisation, the problem is that we are not properly recognised for our traditional ecological knowledge, even though much of today's ecological knowledge stem from the first people of this nation.