

Contesting native title - from controversy to consensus in the struggle over indigenous land rights

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The legislation explicitly guaranteed the validity of all existing property rights so, from the commencement of the NTA's operation, non-Indigenous interests did not have to be concerned about actually being dispossessed of any valid existing interest. The critical policy question at stake was one of balance: how much of a say should native title claimants get over dealings on land subject to claim? What followed is a dramatic story of hard-fought contests over land, resources, money and power, yielding many frustrations and mixed outcomes.

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The Western Australian Government attempted to circumvent the Commonwealth Act by enacting its own legislation, just prior to the passage of the NTA, which purported to extinguish all native title within the jurisdiction and to substitute a form of statutory title. Instead, the litigation was able to proceed and in June 1992, by a majority of six judges to one, the High Court held that *Milirrpum* was wrong, that Australian law recognised the doctrine of native title and that the Meriam people were entitled to 'possess, use, occupy and enjoy' Mer as against the whole world. The functioning of the native title system then is more than the sum of the various instrumental parts and this chapter finishes with some specific 'complications' associated with the process.

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Copyright © 2009 David Ritter. The states and territories, the peak bodies representing primary industry and so-called 'A' and 'B' teams of Aboriginal negotiators, were all involved in an arduous process of lobbying the government and the Opposition, as well as the minor parties the Greens and the Australian Democrats, which then controlled the balance of power in the Senate. He is one of the most prolific comedy voices in Australian media — with a resume that spans tv, radio, digital and live performances in Australia, the US and beyond.

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ISBN: 978-1-74237-020-0 CHAPTER 1 READING THE PORRIDGE Introducing the native title system From the Dreaming to the day The Australian native title system has an often turbulent short history, but origins in the deep past.

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