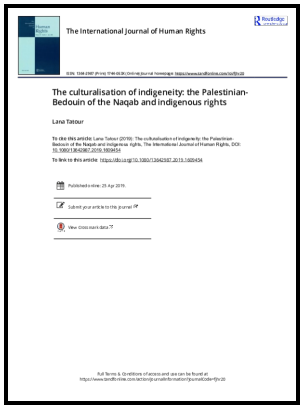
Contesting native title - from controversy to consensus in the struggle over indigenous land rights

Allen & Unwin - Contesting Native Title: From controversy to consensus in the struggle over Indigenous land rights by David Ritter



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Contesting Native Title: From controversy to consensus in the struggle over

The elaborate system of customary land title that existed prior to the arrival of Europeans received no acknowledgement. Once a claim had been lodged with the Tribunal it was made subject to a secondary acceptance procedure which, if passed, resulted in formal 'registration' giving the claimant group a 'right to negotiate' over 'future acts' on the land in question, including the creation of new mining rights and compulsory acquisitions.

The reMAKERs on Apple Podcasts

No recognition of native title in Australia between 1788 and 1992 The formal acquisition of sovereignty over Australia by the British Crown occurred incrementally, between 1788 New South Wales and 1829 Western Australia. On the other hand, merely understanding how the statute works provides only a partial and imperfect guide to explaining what happened. The creation of the NTA was an intensely political and politicising event, making it inevitable that the operation of the new statute would be controversial and vigorously contested.

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The NTA did not assume that all mediations would be successful and provided the Tribunal with the power to refer any claim that could not be settled to the Federal Court for determination by trial.

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The NTA also created a short cut, known as the 'expedited procedure', which could potentially remove the right to negotiate in relation to certain less invasive types of exploration tenement. If a claim went to litigation, the claimants would need to present the same proof of native title that had been set out in the jurisprudence of the Mabo case: the existence of a social group with a continuing traditional connection to the land claimed unbroken since sovereignty. When the list of responding parties 'respondents' to a claim was finalised the Tribunal then initiated a process of mediation for the purposes of trying to resolve the claim through a 'consent determination' of whether native title existed or not, who held it and how it interrelated with other legal interests.

Contesting Native Title: From controversy to consensus in the struggle over Indigenous land rights — the UWA Profiles and Research Repository

Synopsis 'This book debunks in spectacular fashion some of the most treasured, over-inflated claims of the benefits of native title. Other indigenous communities existed on the various islands off Australia's coast.

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Based on extensive research, enriched by intimate experience as a lawyer and negotiator, David Ritter offers both an insider's perspective and a cool-headed and broad-ranging account of the native title system. In lucid prose Ritter examines the contributions of the players that contested and adjudicated native title: Aboriginal leaders and their communities, multinational resource companies, pastoralists, courts and tribunals, politicians and bureaucrats.

Contesting Native Title: From controversy to consensus in the struggle over Indigenous land rights by David Ritter at Abbey's Bookshop

What happened when native title clashed with a pastoral lease, mining tenement, pipeline easement, national park or countless other forms of title? 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. Nevertheless, the Commonwealth Constitution was not silent on the more general 'native question', among other things expressly prohibiting the new federal government from making laws in relation to Aboriginal people, a situation not remedied until the passage of the referendum in 1967. Critical to the success of the case was the enactment of the Commonwealth's Racial Discrimination Act 1975 RDA.

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