



# Mabo What The High Court Said

**Nicole Rogers, Michelle Maloney**



## **Mabo What The High Court Said:**

**Aboriginal Customary Law: A Source of Common Law Title to Land** Ulla Secher, 2014-12-01 Described as ground breaking in Kent McNeil's Foreword this book develops an alternative approach to conventional Aboriginal title doctrine. It explains that Aboriginal customary law can be a source of common law title to land in former British colonies whether they were acquired by settlement or by conquest or cession from another colonising power. The doctrine of Common Law Aboriginal Customary Title provides a coherent approach to the source, content, proof and protection of Aboriginal land rights which overcomes problems arising from the law as currently understood and leads to more just results. The doctrine's applicability in Australia, Canada and South Africa is specifically demonstrated. While the jurisprudential underpinnings for the doctrine are consistent with fundamental common law principles, the author explains that the Australian High Court's decision in *Mabo* provides a broader basis for the doctrine, a broader basis which is consistent with a re-evaluation of case law from former British colonies in Africa as well as from the United States, New Zealand and Canada. In this context, the book proffers a reconceptualisation of the Crown's title to land in former colonies and a reassessment of conventional doctrines including the doctrine of tenure and the doctrine of continuity. With rare exceptions, the existing literature does not probe as deeply or question fundamental assumptions as thoroughly as Dr Secher does in her research. She goes to the root of the conceptual problems around the legal nature of Indigenous land rights and their vulnerability to extinguishment in the former colonial empire of the Crown. This book is a formidable contribution that I expect will be influential in shifting legal thinking on Indigenous land rights in progressive new directions. From the Foreword by Professor Kent McNeil to read the Foreword, please click on the sample chapter link: [Land Claims and National Parks-- the Makuleke Experience](#) Bertus De Villiers, 1999. The restoration of land rights is a key factor in South Africa's transformation. The complexities surrounding the restoration of land rights are often underestimated and the competing interests involved can cause the process to be protracted and emotional. Conflict of interest can be particularly great when land claims are instituted against national parks and other conservation areas cherished by the nation. While such parks and areas are vital for the local, regional, economic development of South Africa, historical wrongs which may have led to the establishment of these parks must also be rectified. Many parks and conservation areas or parts thereof were after all established on land that had been expropriated from black people.

**Contesting Native Title** David Ritter, 2020-08-26 This book debunks in spectacular fashion some of the most treasured over-inflated claims of the benefits of native title. Professor Mick Dodson, ANU Centre for Indigenous Studies. David Ritter's fascinating account of the evolution of the native title system is elegant and incisive, scholarly and sceptical, above all unfailingly intelligent. Professor Robert Manne, La Trobe University. An unsentimental, richly informed account of a fascinating period in the history of Australia's relationships with its indigenous people. From the Foreword by Chief Justice Robert French. After the historic *Mabo* judgement in 1992, Aboriginal communities had high hopes of obtaining land rights around

Australia What followed is a dramatic story of hard fought contests over land resources money and power yielding many frustrations and mixed outcomes 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 His account lays bare the conflicts compromises and conceits beneath the surface of the native title process *Science and Exploration in the Pacific* Margarette Lincoln,1998 This volume contains studies of scientific and cultural discoveries made on Cook s 1768-7 voyage to the South Sea in Endeavour and issues emerging from this and successive Pacific voyages

**American Empire and the Fourth World** Anthony J. Hall,2003-11-10 In *The American Empire and the Fourth World* Anthony Hall presents a sweeping analysis of encounters between indigenous people and the European empires national governments and global corporations on the moving frontiers of globalization since Columbus discovered America How should we respond to the emergence of the United States as the military commercial and cultural centre of a global empire How can we elaborate a global rule of law based on equality and democracy when the world s most powerful polity acknowledges no higher authority in the international arena than its own domestic priorities For Hall the answer lies in the concept of the Fourth World an inclusive intellectual tent covering a wide range of movements whose leaders seek to implement alternative views of globalization Larger than any earlier political movement the Fourth World embraces basic principles that include the inherent rights of self determination and a more just approach to the crafting and enforcement of international law

**Voices in the Wilderness** Michael Meadows,2000-12-30 This book examines race relations in Australia through various media representations over the past 200 years The early colonial press perpetuated the image of aboriginal people as framed by early explorers and stereotypes and assumptions still prevail Print and television news accounts of several key events in recent Australian history are compared and reveal how indigenous sources are excluded from stories about their affairs Journalists wield extraordinary power in shaping the images of cultures and people so indigenous people like those in North America have turned away from mainstream media and have acquired their own means of cultural production through radio television and multimedia This study concludes with suggestions for addressing media practices to reconcile indigenous and non indigenous people This study will appeal to students and scholars studying mass media particularly journalism and public relations Australian history and sociology

**Transparency, Power, and Control** Christoph A. Hafner,Anne Wagner,2016-02-24 This book brings together academics and practitioners from a range of disciplines from more than twenty countries to reflect on the growing importance of transparency power and control in our international community and how these concerns and ideas have been examined used and interpreted in a range of national and international contexts Contributors explore these issues from a range of overlapping concerns and perspectives such as

semiotic sociolinguistic psychological philosophical and visual in diverse socio political administrative institutional as well as legal contexts The collection examines the ways in which actors in our society legislators politicians activists and artists have provoked public discourses to confront these issues

**The American Empire and the Fourth World** Anthony J. Hall, Tony Hall, 2005 In a book that Naomi Klein says could change the world Anthony Hall shows that the globalization debate actually began in 1492

**Law in Australian Society** Keiran Hardy, 2024-10-15 What is the rule of law How do laws get made Does our legal and political system achieve justice for all Australians equally Designed for beginners as well as non law students this textbook provides a comprehensive and accessible guide to understanding Australia s system of law and government Law in Australian Society explains legislation and case law courts and the doctrine of precedent Keiran Hardy examines the roles played by parliaments politics and the media He explains founding principles including democracy liberalism the separation of powers and federalism Human rights and justice are highlighted with an emphasis on First Nations Peoples and the law The book explains criminal responsibility and the justice system including police powers and the criminal trial It concludes with case studies of cybercrime and counterterrorism laws to illustrate law reform in action This second edition has been fully updated throughout including recent legislation cases and topical issues from Australian law and politics including from the COVID 19 pandemic and the recent referendum on an Indigenous Voice to Parliament Each chapter features practical examples chapter summaries and review questions together with a glossary of key terms Concise accessible and up to the minute this is a vital guide for anyone seeking to understand Australian law and government

*Information Technology and Lawyers* Arno R. Lodder, Anja Oskamp, 2006-02-20 The gap between information technology and the legal profession is narrowing in particular due to the Internet and the richness of legal sources that can be found online This book further bridges the gap by showing people with a legal background what is possible with Information Technology now and in the near future as well as by showing people with an IT background what opportunities exist in the domain of law

**Aboriginal Peoples, Colonialism and International Law** Irene Watson, 2014-10-17 This work is the first to assess the legality and impact of colonisation from the viewpoint of Aboriginal law rather than from that of the dominant Western legal tradition It begins by outlining the Aboriginal legal system as it is embedded in Aboriginal people s complex relationship with their ancestral lands This is Raw Law a natural system of obligations and benefits flowing from an Aboriginal ontology This book places Raw Law at the centre of an analysis of colonisation thereby decentring the usual analytical tendency to privilege the dominant structures and concepts of Western law From the perspective of Aboriginal law colonisation was a violation of the code of political and social conduct embodied in Raw Law Its effects were damaging It forced Aboriginal peoples to violate their own principles of natural responsibility to self community country and future existence But this book is not simply a work of mourning Most profoundly it is a celebration of the resilience of Aboriginal ways and a call for these to be recognised as central in discussions of colonial and postcolonial legality Written by an experienced legal practitioner scholar and

political activist Aboriginal Peoples Colonialism and International Law Raw Law will be of interest to students and researchers of Indigenous Peoples Rights International Law and Critical Legal Theory *Annual Bibliography* Australian Institute of Aboriginal and Torres Strait Islander Studies, 1994 **The Trouble with Tradition** Simon Young, 2008 This book is a broad and detailed examination of the native title jurisprudence in the US Canada New Zealand and Australia with a specific focus on the handling of Indigenous community changes in each country's case law Law as if Earth Really Mattered Nicole Rogers, Michelle Maloney, 2017-04-21 This book is a collection of judgments drawn from the innovative Wild Law Judgment Project In participating in the Wild Law Judgment Project which was inspired by various feminist judgment projects contributors have creatively reinterpreted judicial decisions from an Earth centred point of view by rewriting existing judgments or creating fictional judgments as wild law Authors have confronted the specific challenges of aligning existing Western legal systems with Thomas Berry's philosophy of Earth jurisprudence through judgment writing and rewriting This book thus opens up judicial decision making and the common law to critical scrutiny from a wild law or Earth centred perspective Based upon ecocentric rather than human centred or anthropocentric principles Earth jurisprudence poses a unique critical challenge to the dominant anthropocentric or human centred focus and orientation of the common law The authors interrogate the anthropocentric and property rights assumptions embedded in existing common law by placing Earth and the greater community of life at the centre of their rewritten and hypothetical judgments Covering areas as diverse as tort law intellectual property law criminal law environmental law administrative law international law native title law and constitutional law this unique collection provides a valuable tool for practitioners and students who are interested in learning more about the emerging ecological jurisprudence movement It helps us to see more clearly what a new system of law might look like one in which Earth really matters Mabos Cultural Legacy Geoff Rodoreda, Eva Bischoff, 2021-06-08 More than any other event in Australia's legal political and cultural history the High Court of Australia's 1992 Mabo decision challenged previous ways of thinking about land identity belonging the nation and history Now more than a quarter of a century after Mabo this book examines the broader impacts of this landmark legal decision on various forms of Australian culture and cultural practice How is Australia's post Mabo imaginary being reflected refracted and articulated in contemporary film fiction poetry biography and other forms of cultural expression To what extent has the discussion and practice of history linguistics anthropology and other branches of the humanities been challenged or transformed by Mabo While the judges in Mabo recognised native title they also denied Indigenous people sovereignty over the continent how is First Nations sovereignty being articulated and creatively imagined in more recent post Mabo discourse This interdisciplinary book offering a transnational perspective via scholars based in Australia continental Europe and the UK provides an overview of the diverse impact and discursive influence of Mabo on fields of artistic endeavour and cultural practice in Australia today **Hybrid Geographies** Sarah Whatmore, 2002-11-04 Hybrid Geographies is one of the most original and important

contributions to our field in the last 30 years At once immensley provocative and productive it is written with uncommon clarity and grace and promises to breathe new life not only into geographical inquiry but into critical practice across the spectrum of the humanities and social sciences and beyond An extraordinary achievement Professor Derek Gregory Department of Geography University of British Columbia Hybrid Geographies critically examines the opposition between nature and culture the material and the social as represented in scientific environmental and popular discourses Demonstrating that the world is not an exclusively human achievement Hybrid Geographies reconsiders the relation between human and non human the social and the material showing how they are intimately and variously linked General arguments informed by work in critical geography feminist theory environmental ethics and science studies are illustrated throughout with detailed case study material This exemplifies the two core themes of the book a consideration of hybridity the human non human relation and of the fault lines in the spatial organization of society and nature Hybrid Geographies is essential reading for students in the social sciences with an interest in nature space and social theory     *The March of Patriots* Paul Kelly,2011-04-01 Unveiling the inside story of how Paul Keating and John Howard changed Australia this record presents these two personalities as conviction politicians tribal warriors and national interest patriots Divided by belief temperament and party they were united by generation city and the challenge to make Australia into a successful nation for the globalized age The making of policy and the uses of power are explored capturing the authentic nature of Australian politics as distinct from the polemics advanced by both sides Focusing on how these prime ministers altered the nation s direction this study also depicts how they redefined their parties and struggled over Australia s new economic social cultural and foreign policy agendas A sequel to the author s bestselling *The End of Certainty* this survey is based on more than 100 interviews with the two key players as well as other politicians advisers and public servants     **No Small Change** Frank Brennan,2015-05-01 In 1967 Australians voted overwhelmingly in favor of removing from the Constitution two references that discriminated against Aboriginal and Torres Strait Islander people Though these seemed like small amendments they were an impetus for real change from terra nullius to land rights and from assimilation to self determination Nearly 50 years later there is a groundswell of support for our Indigenous heritage to be formally recognized in the Constitution With the prospect of a new referendum in the near future Frank Brennan considers how far Australians have come and yet how much work lies ahead He looks through the prism of history to examine what we can learn from our successes and failures since 1967 from the efforts of the Council of Aboriginal Affairs to the Gove land rights case and the Aboriginal Tent Embassy He also assesses the way forward how the upcoming referendum might provide fresh momentum for governments and Indigenous Australians to negotiate better outcomes Written by one of the most respected commentators on legal and human rights issues this book makes a vital contribution to the understanding of Indigenous affairs It will generate crucial debate on how Australians should acknowledge the history that for too long has gone unrecognized     **Citizens Without Rights** John

Chesterman, Brian Galligan, 1997-12-22 3 Is the constitution to blame      **The Stacked Deck and the Myth of Sovereignty**

Louis A Coutts, 2023-05-31 How could the simple planting of a flag by a sailor mysteriously transfer total control over the destinies of the original inhabitants of Australia to a distant king of whom they had never heard The sad answer to this question involves a series of illegal and corrupt decisions by the highest courts in England and Australia over more than 200 years These decisions have served to deny the sovereignty of First Nations people But these same decisions do not withstand rigorous legal scrutiny From the mis application of the doctrine of Terra Nullius to the dependence on flawed and discredited precedent in calling on the doctrine of Act of State the illegality of the dispossession of Australia s indigenous people is laid bare This legal deconstruction of the major cases reveals the extreme fragility of the arguments denying Indigenous sovereignty In fact it shows that the very arguments used to deny this sovereignty actually demand its recognition The Australian High Court has tied itself in knots to avoid facing the reality of Indigenous sovereignty These knots are a legal fiction whose undoing illustrates the advantages of joint sovereignty as a just way forward for all Australian people



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## **Table of Contents Mabo What The High Court Said**

1. Understanding the eBook Mabo What The High Court Said
  - The Rise of Digital Reading Mabo What The High Court Said
  - Advantages of eBooks Over Traditional Books
2. Identifying Mabo What The High Court Said
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Mabo What The High Court Said
  - User-Friendly Interface
4. Exploring eBook Recommendations from Mabo What The High Court Said

- Personalized Recommendations
- Mabo What The High Court Said User Reviews and Ratings
- Mabo What The High Court Said and Bestseller Lists
- 5. Accessing Mabo What The High Court Said Free and Paid eBooks
  - Mabo What The High Court Said Public Domain eBooks
  - Mabo What The High Court Said eBook Subscription Services
  - Mabo What The High Court Said Budget-Friendly Options
- 6. Navigating Mabo What The High Court Said eBook Formats
  - ePub, PDF, MOBI, and More
  - Mabo What The High Court Said Compatibility with Devices
  - Mabo What The High Court Said Enhanced eBook Features
- 7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Mabo What The High Court Said
  - Highlighting and Note-Taking Mabo What The High Court Said
  - Interactive Elements Mabo What The High Court Said
- 8. Staying Engaged with Mabo What The High Court Said
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Mabo What The High Court Said
- 9. Balancing eBooks and Physical Books Mabo What The High Court Said
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Mabo What The High Court Said
- 10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
- 11. Cultivating a Reading Routine Mabo What The High Court Said
  - Setting Reading Goals Mabo What The High Court Said
  - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Mabo What The High Court Said

- Fact-Checking eBook Content of Mabo What The High Court Said
- Distinguishing Credible Sources

### 13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

### 14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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