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Native Title an Act too hard to follow



My social, cultural, political journey has revealed flaws in Native Title law which leave Aboriginal people and the environment vulnerable to genocide and ecocide.

I have learnt that the colonial ethos is entrenched in the laws, policies and practices of governments, corporations and Indigenous representative bodies which impose development over Traditional Owners who do not have free, prior or informed consent.

My recent experience on country demonstrated how the rights of senior law and cultural bosses were ignored, reducing their right to participate in Native Title decision making. I saw firsthand how the votes were rigged against Aboriginal people with rights and interest in their own lands becoming quickly, disenfranchised. Federal law and the deficit public policy approach to Indigenous development are aimed at reducing the human rights of Aboriginal Australians.

The national and international evidence regarding the construction and maintenance of Indigenous disadvantage by Australian state and territory governments is overwhelming. The Australian Government has the powers to make laws to promote Indigenous interests and reduce Indigenous disadvantage. It has failed its constitutional duty.

The Kimberley is unique; worthy of responsible management. Despite partial National Heritage Listing a couple of months ago there are serious questions hanging over development in the Kimberley. The science is in, the resource extraction, processing and transport planned for the Kimberley would have significant negative impacts on the environment, the people, plants and animals if it were allowed to proceed.

Recently at the National Press Club Alan Jones illuminated the collective concern people right around Australia share in regards to the damage resource extraction, processing and transport, particularly coal seam gas is having on established and potential industries. Mr Jones makes the argument for farmers to have the right to 'lock the gate' which is effectively the same as Aboriginal peoples call for the right to 'veto' mining on their land. There is a common need to protect our water, food and job security into the future.

The opportunity to coexist and co-manage with pastoralist, graziers and agriculturalist has not been seriously considered. There are far more Indigenous jobs in the culture and conservation green collar industries such as wild harvest bush foods and medicine, land care, rangers and tourism these enterprises require serious investment as they are more sustainable and produce greater national ecosystem services, social and cultural benefits than mining.

The current worldwide financial crisis demonstrates the rampant pursuit of growth and globalisation has greatly improved the lives of a few wealthy investors at the expense of other lives, mainly Indigenous people from around the world.

The largest and most aggressive resource development companies in the world are based in Australia and they are responsible for the majority of environmental catastrophes around the world. The Australian Government is allowing these same corporations to invade, occupy and destroy Aboriginal land, water and people.

Many Aboriginal people are not aware of their rights under United Nations conventions which say they can never be forced to trade their country for basic human rights like health, education and housing and have an absolute right to say no to such deals. Instead, they are being told they have no choice.

The Native Title Act 1993 provides no security for Aboriginal people to protect their land, health, culture and sustainable economic development.

The first thing Traditional Owners are told in mining negotiations from our native title representative body is, "you have no 'veto' so you can't say no, so start negotiating". The process has steered Aboriginal people down the funnel without any genuine opportunity to discuss the issues regarding the pro and cons associated with mining. Mining deals are being pushed onto Aboriginal people who are forced to make decisions without free, prior and informed consent.

I have clear evidence of instructions from

traditional O w n e r clients being ignored by a Ťitle Native representative b o d y Furthermore, Elders who cannot read and right are being coerced into signing agreements.

Traditional Owners have absolute an right and responsibility to protect our ancestral lands and waters. Government policies are forcing us to move

from our traditional homelands and make it look like nobody cares about the country, to further entrench the myth that the land is empty

We have a duty of care to look after the environment. Who talks for the river, who talks for the fish and the animals? It is our job to do the right thing now for current and future generations of all Australians. We have a shared heritage and we need to look after this country, as Lucy Marshall says "shoulder to shoulder, black and white together".

There are so many serious challenges for Aboriginal people yet federal and state/territory governments continually fail to look beyond their own selfish interests.

The Council Of Australian Government has failed to deliver meaning outcomes because the only things governments appear to do is focus on is mining and bullying us into giving up the last of our identity and freedom.

Every which way you look at it the governments are bullying us into mining. All the rules, all the laws, all the policies; are designed to take our rights away and force us into dangerous short term mining ventures which have produced limited changes to indicators of wellness and wealth.

All levels of government are working as direct partners with these multinational companies to send the majority of our wealth



Dr Anne Poelina talking with the gathering at the Walmadany Camp at its official opening of the Tent Embassy in September 2011.

Image: Damien Kelly

overseas. According to Senator Bob Brown 83% of the resource profit goes to international investors. These profits are derived from the destruction of our food and job security, lands and waters all of which is eroding our human rights as Australians to economic participation and personal and community well being.

There are hundreds of millions of government dollars going into mining development and the best Aboriginal people can do is to negotiate for some crumbs from a mining deal.

Surely as 2011 draws to a close, we can come up with an equitable way of sharing these resources between all of the partners and be proud of world's better practice, with a win-win for the environment, corporate sector, governments and not least of all Traditional Owners.

We have not been given any alternatives to mining in order to improve our local economy. The federal economic policy around Native Tile is "get a mine and close the gap".

I am not against resource development if it can be done in an ethical and responsible process however if the science is not certain of the safety and the cultural issues are not resolved then Traditional Owners must have the right to veto mining on their land.

Without these powers, Native Title will remain an Act to hard to follow.



Phillip Roe, Joseph Roe and Richard Hunter – Walmadany traditional law custodians. Image: Damien Kelly