

# ABORIGINAL SOVEREIGN POSITION

Aboriginal Ownership, Occupancy, Possession and Sovereign jurisdiction over these our lands remains intact and is enforceable under the legal auspices of the Law of Nations.

Within our oral tradition and structure, possessory title has been handed down through the generations by a system of mnemonic hieroglyphics, often seen represented by Tjchuringas, bark paintings and rock art, and in traditional re-enactment of ceremonial history and law. Sovereignty and Possessory Right, that Entitlement to Land and Law as inherent in the Aboriginals both collectively and individually, was immutably retained throughout time. Thus, in effect, such Entitlement and Possessory Right remained intact and was not disursable or negotiable in any form as transfer or barter.

Notwithstanding the assertions by our invaders to the contrary Aboriginal Sovereign Right, Prior Ownership and Possession of these our lands has remained constant and in force as our proprietary right and inheritance, despite alien intrusion, invasion and colonisation by the British.

While Aboriginal Law, Possession and Successional Inheritance have always been based upon a traditional and immutable set of laws that was non-erodable, they have had certain universal similarities with common principles that are seen reflected in common as well as international law. Some of those principles bear relevance in asserting the tenets of the immutable rights to life, property, inheritance, descendancy, self-determination and sovereignty of Aboriginals within these, our Sovereign Domains.

## RIGHT TO PROPERTY

Where property belongs to the individual, or tribal collective in the real form, such as personal effects, weapons etc., or in the abstract such as songs, markings, orchestrations, dance etc. that property is protected in law and cannot be removed arbitrarily by theft, fraud or other illegal means. Property in estate, land is sovereign property inviolate and cannot be removed, bartered or sold.

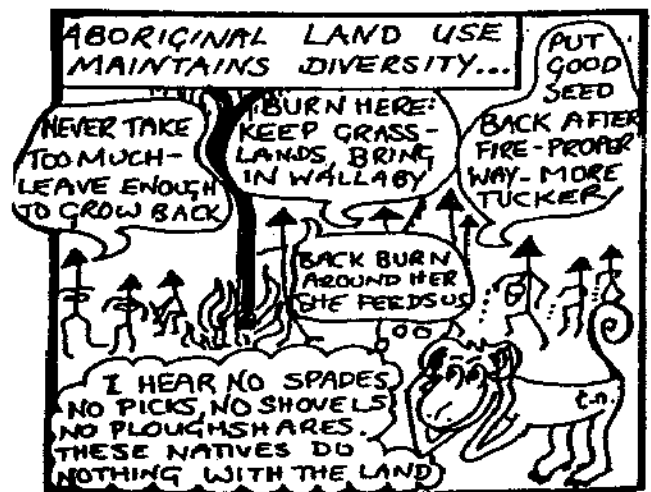
The ownership is encompassed within the legal entity of the total members of the group; all distinct rights and roles in and to the land, in a complex series of duty and ritual. For instance, the 'traditional owner' section holds the special and sacred duty of 'Title Holder' by performance of duties, keeping of legal mnemonics, (Title Records such as in Tjchuringas, inscriptions, ceremonial and initiation). The sub-section groupings, holding all other rights such as hunting, ceremonial, usage rights, still retain 'Ownership' right and 'Belonging', both real and abstract, within that sovereign group and to that



sovereign domain.

Sovereignty of each group and the recognition of sovereign boundaries have been established and protected from the Beginning. That such Sovereignty was a distinct recognition can be attested by the manner of representation between the groups (tribes) and within the boundaries of the groups. For instance, each Sovereign Area has been an area inviolate and not able to be trespassed upon by other groups. Where, as in times of drought or ceremony to be performed across sovereign borders, sovereign representation has to be adhered to in a series of ambassadorial initiatives.

Trade routes and dreaming tracks have been formally established on the same principle. These tracks still exist. In effect, a universal language and interstate intercourse were maintained and can still be maintained under the auspice of the Aboriginal Federated Nation State.



## LAND MANAGEMENT AND USAGE

It is now an established fact (abroad in the non-Aboriginal community) that our People practised a complex form of land and animal husbandry, for instance, in the planting and distribution of seed, species maintenance, firing, land clearing, regeneration, fish harvesting, enclosed breeding areas, species distribution and maintenance of grasslands. (18)

## LAW AND GOVERNMENT

It is also an established fact that our system of law was in place, complex, humane and indeed, in the terms of compassionate humanity and fair dealing, rank as one of the most civilised systems of law in the world, as then extant and up to our contemporary period where such traditional application continues. (19)

Our family moiety and system of genetic and moral controls for the well being and development of our Peoples ranks as one of the most complex systems, while our traditional culture, economy, land management and indeed our physiological continuance beginning from early modern man distinctly place us amongst the oldest and most enduring cultures and People upon the earth to this day.

The 'collective' title of the group/tribe has a far wider implication than the much mooted 'communal native title' simply implied. For instance, the title and boundary were effectively defined in the widest possible sense of continuity, inheritance, legal system, inter-nation communication and negotiation.

## INTERNATIONAL COMMUNICATION

The ability to communicate and negotiate with other Nation States is evidenced in earlier dealings from time immemorial with the Macassans, the Portuguese, Dutch and French, before the British arrival and invasion by Captain James Cook. (20)

Our Sovereign Position was tested by the Dutch Empire in 1606. The Dutch ship, *Duyfken*, attempted to establish territorial right upon our lands in northwest Australia. Repulsed by our force of arms,



they recorded in the annals of the *Duyfken* this record: '... but every attempt to land was opposed by hostile Aborigines with spears in their hands.'

At a further point, which the Dutch named Cape Keerweer, where they landed and began to erect habitations, our People set fire to the boats, killed a large number of the crew, and forced the Dutch to evacuate. (21)

In 1688, William Dampier landed and was driven off. (22)

All previous 'discoverers' recognised our Sovereign Rights according to principles of international law.

But, in 1770, watched from the shore by Aborigines, a British sailor planted his flag for Britain and claimed 'Discovery' of our land. Unable to entice our people to accept gifts as 'formal purchase' of our land, he took possession WITHOUT consent and from this one act, emphasised with musket shots, asserted 'sovereignty' for Britain over the entirety of our land. In so doing, he contravened not only our established law but also the legal tenets of Nations.

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"Aboriginal sovereignty: justice, the law and land", Kevin Gilbert  
Canberra 1988.

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