INDIGENOUS FACILITATION AND MEDIATION PROJECT

AUSTRALIAN INSTITUTE OF ABORIGINAL AND
TORRES STRAIT ISLANDER STUDIES

Culture, Conflict Management and Native Title:
An Emerging Bibliography

Compiled by:
Sally Brockwell, Kitty Eggerking, Rebecca Morphy
and Toni Bauman

Report No. 4
Table of Contents

Acknowledgements .................................................................................. 1

Introduction ............................................................................................ 1

1. Culture, Conflict and Communication .............................................. 2
   (a) International ................................................................................. 2
   (b) Australia ..................................................................................... 25

2. Alternative Dispute Resolution (ADR) General .................................. 33
   (a) International ................................................................................. 33
   (b) Australia ..................................................................................... 43
   (c) Practical Strategies ....................................................................... 51

3. Alternative Dispute Resolution/Indigenous Specific ............................... 59
   (a) International ................................................................................. 59
   (b) Australia ..................................................................................... 68

4. (a) Australian Native Title Mediation and Practice Issues ..................... 74
   (b) Papers and Publications, Indigenous Facilitation and Mediation Project,
       Native Title Research Unit, Australian Institute of Aboriginal and Torres
       Strait Islander Studies ....................................................................... 91

5. Useful Internet Bibliographic Links ..................................................... 92

6. Audiovisual Resources ......................................................................... 96
Acknowledgments

The Indigenous Facilitation and Mediation Project (IFaMP) wishes to acknowledge the Office of Indigenous Policy Coordination, Department of Immigration and Multicultural and Indigenous Affairs in the Australian Government for funding the research in this bibliography and its publication. We also thank Morgan Brigg (Australian Centre for Peace and Conflict Studies, University of Queensland) for his helpful suggestions and Catherine Pledge for formatting.

Introduction

Research into decision-making and conflict management processes and the role ‘culture’ plays in such processes is assuming increasing importance globally. This is particularly the case in Australia, given that the emphasis of the amended *Native Title Act 1993* is on agreement-making and maximising ‘outcomes’ through non-adversarial and collaborative alternative dispute resolution mechanisms such as mediation and facilitation.

The Indigenous Facilitation and Mediation Project (IFaMP) in the Native Title Research Unit at the Australian Institute of Aboriginal and Torres Strait Islander Studies commenced in July 2003. *Culture, Conflict Management and Native Title: An Emerging Bibliography* has been researched by various IFaMP staff intermittently since then.

The bibliography provides a broad range of references and some practical resources concerning culture, decision-making, conflict management and native title in Australia. It locates IFaMP’s research within both international and Australian research. Where possible, internet links are provided for publications which can be downloaded.

The bibliography is organised in six sections as follows:

1. Culture, conflict and communication
2. General alternative dispute resolution
3. Indigenous specific alternative dispute resolution
4. Australian native title mediation and practice issues
5. Useful internet bibliographic links
6. Audiovisual resources

It has not been possible to cover the entire research terrain and IFaMP wishes to apologise for any significant omissions.

If you find significant omissions in this bibliography, please contact IFaMP at ifamp@aiatsis.gov.au with the relevant details and we’ll add the reference to our bibliography on our website: www.aiatsis.gov.au/rsrch/ntru/ifamp/index.html.
1. Culture, Conflict and Communication

(a) International


http://www.colorado.edu/conflict/full_text_search/AllCRCDocs/93-4.htm


1. Culture, Conflict and Communication

(b) Australia


2. Alternative Dispute Resolution (ADR) General

(a) International


http://www.culturalsurvival.org/publications/csq/csq_article.cfm?id=CE7001E8-8F99-4259-8FC1-2CBBC19B96DF&region_id=0&subregion_id=1&issue_id=9


2. Alternative Dispute Resolution (ADR) General

(b) Australia


http://www.iama.org.au/journal/jn200011/condliffe01.htm


http://www.aija.org.au/Tribs02/Cull.rtf


National Alternative Dispute Resolution Advisory Council (NADRAC) 2003. *Dispute Resolution Terms*. Canberra: NADRAC.


National Alternative Dispute Resolution Advisory Council (NADRAC) 2004. *Submissions in Response to “Who says you're a Mediator? Towards a National System for Accrediting Mediators”*. Canberra: NADRAC.

National Alternative Dispute Resolution Advisory Council (NADRAC) 2004. *Overview of Responses to “Who says you're a Mediator? Towards a National System for Accrediting Mediators”*. Canberra: NADRAC.


http://www.lawlink.nsw.gov.au/lrc.nsf/b302b703a1328b7e4a256e8002658dc/14367065c0be144ca256f66000dd4e8/$FILE/RR12s.pdf


2. Alternative Dispute Resolution (ADR) General

(c) Practical Strategies

Aboriginal Legal Rights Movement Inc. 1996. *Mediation Training Information Kit.* Prepared in conjunction with the Queensland Alternative Dispute Resolution Division, Department of Justice and Attorney-General.


http://www.ksg.harvard.edu/hpaied/pubs/pub_135.htm

http://www.berghof-handbook.net/


Facilitation skills. *Footsteps* 60: 1-16. [http://tilz.tearfund.org/Publications/Footsteps+51-60/Footsteps+60/](http://tilz.tearfund.org/Publications/Footsteps+51-60/Footsteps+60/)


Learning about Native Title. [http://www.nativetitle.edu.au/](http://www.nativetitle.edu.au/)


3. Alternative Dispute Resolution/Indigenous Specific

(a) International


French, E. Against all odds. *Track Two* 7(1). [http://ccrweb.ccr.uct.ac.za/archive/two/1/p32.html](http://ccrweb.ccr.uct.ac.za/archive/two/1/p32.html)


http://www.culturalsurvival.org/publications/csq/


http://www.icclr.law.ubc.ca/Publications/Reports/Justice.PDF


http://www.trinstitute.org/ojpcr/1_3tt2.htm


http://www.usask.ca/nativelaw/publications/jah/yazzie.html

http://www.reconciliationaustralia.org/upload/11_robert_yazzie.doc


http://www.iirp.org/library/mn02/mn02_zion.html
3. Alternative Dispute Resolution/Indigenous Specific

(b) Australia


Ackfun, A. 1993. *A Profile of the Aboriginal and Torres Strait Islander Mediation Project*. Brisbane: Alternative Dispute Resolution Division, Department of Justice and Attorney-General.


Legal Aid Commission (New South Wales) n.d. ATSIFAM (Aboriginal and Torres Strait Islander Family Mediation) Pilot Project. Sydney: Legal Aid Commission.

Islander Communities in Queensland. Brisbane: Community Justice Programme, Department of Attorney-General.


4 (a) Australian Native Title Mediation and Practice Issues


Burke, P. (ed.) 1995. The *Skills of Native Title Practice: Proceedings of a Workshop*. Canberra: Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.


Chaney, F. 1998. Mediation between different Indigenous groups as part of the broader mediation process. In L. Strelein (ed.). *Working with the Native Title Act*:
Alternatives to the Adversarial Method, pp. 93-107. Canberra: Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.


Mediation Conference, Canberra 18-20 September.


Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund 2002. *Operation of the Native Title Act. Inquiry into the Effectiveness of the National Native Title Tribunal*. Submissions. 

Peterson, N. 1995. Organising the anthropological research for a native title claim. In P. Burke (ed.). *The Skills of Native Title Practice*. Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.


Strelein, L. (ed.) 1998. Working with the Native Title Act: Alternatives to the Adversarial Method. Canberra: Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.


of a Workshop, pp. 97-103. Canberra: Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.


Woenne-Green, S. 1995. Some ethical issues for representative bodies and anthropologists working together on native title issues. In J. Fingleton, and J. Finlayson (eds). Anthropology in the Native Title Era, pp. 52-55. Canberra: Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies.


4 (b) Papers and Publications of the Indigenous Facilitation and Mediation Project (IFaMP), Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islanders


5. Useful Internet Bibliographic Links

Aboriginal People and the Law.  
http://www.geocities.com/Athens/Acropolis/7001/solon_di.htm

Agreements, Treaties and Negotiated Settlements (ATNS) Project.  
http://www.atns.net.au

Alternative Dispute Resolution. Publications.  
http://www.cle.bc.ca/CLE/Publications/browse?practiceAreaMessage=trueandpracticeArea=ADR

Archie Zariski’s Conflict and Dispute Resolution Links Department of Law, Murdoch University, Perth.  

Asia-Pacific Mediation Forum, JDR/ADR Bibliography.  


Australian Dispute Resolution Web Site: Publications  

Beyond Intractability.org On-Line Knowledge Base.  
http://www.beyondintractability.org/iweb/


Centre for Effective Dispute Resolution (CEDR). Library.  


Centre for Indigenous Dispute Resolution. Bibliography.  www.cidr-net.org

Centre for World Indigenous Studies (CWIS) and the Chief George Manuel Library. World Wide Web Virtual Library: Indigenous Studies.  
http://www.cwis.org/wwwvl/indig-vl.html
Conflict Management Group, Canada: Publications.  
http://www.cmgroup.org/publications.html


http://crnhq.org/index.html

http://conflict.colorado.edu/

Consortium on Negotiation and Conflict Resolution. Papers.  
http://law.gsu.edu/cncr/research/papers.html

Continuing Legal Education Society of British Columbia. Publications: Aboriginal Law and ADR.  
http://www.cle.bc.ca/CLE/Publications/default.htm

CRInfo Book Reviews.  
http://www.crinfo.org/masterresults.cfm?pid=1767&clr=666666

Cultural Survival Quarterly.  
http://www.culturalsurvival.org/publications/csq/


Department of Peace Studies, University of Bradford, West Yorkshire, UK

Departmental Publications.  
http://www.bradford.ac.uk/acad/peace/pubs/pubs.htm

Dispute Resolution Centre, Kellogg School of Management, Northwestern University, Evanston, Illinois, USA. Working Papers.  
http://www.kellogg.northwestern.edu/drcc/

The Harvard Project on American Indian Economic Development. Research and Publications.  
http://www.ksg.harvard.edu/hpaied/res_main.htm

INCORE, Ulster, UK. Conflict Data Service. Guide to Internet Resources on Mediation.  
http://www.incore.ulst.ac.uk/services/cds/themes/mediation.htm

Institute for Dispute Resolution, University of Victoria, British Columbia, Canada. Publications and Videos.  
http://www.dispute.resolution.uvic.ca/publications/order.htm

International Association of Facilitators. Articles about what Facilitation is.  
http://www.iaf-world.org/i4a/pages/index.cfm?pageid=3283

International Conflict Resolution Centre, University of Melbourne. Bibliography.  

http://www.iirp.org/booksvideos/index.html
Culture, Conflict Management and Native Title: An Emerging Bibliography

http://www.josseybass.com/WileyCDA/Section/id-2982.html

Justice Institute of British Columbia Library. Conflict Resolution.  
http://www.jibc.bc.ca/Libraryfiles/main/Find/BibliographiesSubject.htm#CONRES

LEADR New Zealand. Miscellaneous Articles.  
http://www.leadrnz.co.nz/index.cfm/Articles/Miscellaneous_articles/index


http://www.peacemakers.ca/bibliography/index.html


National Mediation Conference (Australia). Abstracts and papers from the 5th conference.  

Papers of the 6th conference.  

Papers of the 7th conference.  

Native Title Info-Base. Federal Court of Australia.  

Native Title Research Unit, Australian Institute of Aboriginal and Torres Strait Islander Studies: Publications.  

National Native Title Tribunal: Information and Publications.  


http://www.peaceresearchfoundation.org/globalpeacedirectory2.asp

Program on Negotiation at Harvard Law School Clearinghouse.  
http://www.pon.org/catalog/index.php

Relationships Foundation. Resources.  
http://www.relationshipsfoundation.org/

Sanda Kaufman’s Conflict Management Web Resources.  
http://urban.csuohio.edu/~sanda/conflict.htm
Track Two. Quarterly publication of the Centre for Conflict Resolution and the Media Peace Centre, South Africa. Archives. 
http://ccrweb.ccr.uct.ac.za/archive/two/index.html

Union of British Columbia’s Municipalities (UBCM) CivicNet BC. Resources available from UBCM on Aboriginal Issues. 
http://civicnet.bc.ca/siteengine/ActivePage.asp?PageID=10&bhcp=1


University of Peace. Peace and Conflict Resolution Journals. 
http://www.upeace.org/resources/online.cfm?id_category=8andid_resource=1

http://www.unpan.org/technical_highlights-conflictdatabase.asp
6. Audiovisual Resources


Nice Weather, Mr. Pradhan! 1989. A Film by Hans Heijnen. 28 minutes. Read a summary: http://www.frif.com/cat97/k-o/nice_wea.html


Talk About It. A video about mediation for Aboriginal and Torres Strait Islander Communities. Presented by the Community Justice Programme, Queensland Department of the Attorney-General. For more information contact 1800 017 288.


The Indigenous Facilitation and Mediation Project (IFaMP) is located within the Native Title Research Unit at the Australian Institute of Aboriginal and Torres Strait Islander Studies.

Broad aims of the Project include:

- the identification of best practice in facilitating Indigenous decision making and managing disputes in native title which builds on existing Indigenous processes, practices and skills;
- raising awareness of the need for procedural expertise and skills and long term relationship building; and
- promoting the development of panels of regionally-based Indigenous facilitators and mediators who are supported and mentored appropriately, and who are effective in native title.


This Report is Number 4 in a series of IFaMP publications. It provides a broad range of references relating to culture and conflict management, with a particular focus on native title in Australia. It is a unique and valuable resource not only for native title practitioners, but also for alternative dispute resolution practitioners more broadly.