

BRYAN ANDREW KEON-COHEN

Publications and Original Research: 1972 – 2013

(I) BOOKS :

Keon-Cohen & Greene, *Driven to Crime* (Pittmans, Melb. 1978, 55 pp). A case study for secondary students. (50% contribution)

Keon-Cohen, Richardson, Davies, Boer (eds) *Health and Safety at Work: A Review of Current Issues* (CCH, Sydney, 1980, 157 pp). An edited collection of conference papers. (25% editorial contribution)

Keon-Cohen and Hanks (eds) *Aborigines and the Law* (G. Allen & Unwin, 1984, 357 pp). A collection of essays dealing with Constitutional, Civil and Criminal issues, (Second print, 1988). (50% editorial contribution)

1994 – June 1996: Butterworths Editing: I annotated the Native Title Act 1993 and associated legislation included in Butterworths *Native Title Loose-leaf Service*. Substantial annotations were prepared and published.

Keon-Cohen, *On Whose Grounds? Indian Land Rights in Brazil*, (World Vision, Australia, Issues in Global Development Series, No 4, August 1995) 91 pp plus Bibliography. This booklet arose from a World Vision sponsored research tour of Brazil.

Keon-Cohen (ed) *Native Title in the New Millennium* (AIATSIS, 2001, 417 pp). A book and accompanying CD comprising edited papers arising from a national conference, organised by myself, held in Melbourne in April 2000.

Keon-Cohen, *Mabo in the Courts: Islander Tradition to Native Title: A Memoir* (ASP, Melbourne, 2 Vols, 2011)

(II) COMPILATION OF RESEARCH COLLECTION

1992 – 2012: Mabo Collection: 170 approx arch-lever files of documents, plus additional items, generated by the litigation *Mabo (No 1)* and *(No 2)*; collected, edited and indexed with funding from the National Library, Canberra, utilising research students; in 1998 originals of vols 1-73 donated to the National Library, Canberra (MS 9518) with a copy set held by myself. In 2001 the collection, along with Mabo family papers, was inscribed on the UNESCO International Memory of the World Register as part of the Memory of the World, signifying the collection as “documents of unique and irreplaceable world significance”.

(III) LEGAL ARTICLES

Legal History

"John Walpole Willis: First Resident Judge in Victoria" (1972) 8 M.U.L.R. 703-714.

"Mad Judge Montagu: A Misnomer" (1975) 2 Mon.L.R. 50-81.

"William Jeffcott - The Poor Man's Judge" (1976) 50 Australian Law Journal 334-350.

"Sir Leo Cussen" in 8 Australian Dictionary of Biography (MUP 1981) 184-5.

Common Law

"The Doctrine of Good Faith in Japanese Contract Law" (1973) 4 LAWASIA 177-191.

Legal Aid

"Legal Aid in Australia: Confrontation and Confusion" (1976) Legal Action Group Bulletin, 52-55, 78-81 (U.K.)

Legal Education

"Community Legal Education in Australia" (1977-78) 4 Mon. L.R. 292-318.

"Legal Education in Australia: Open Letter" (1976) 2 Legal Service Bulletin 31-33.

"Community Legal Education and Traditional Aboriginal Communities" (10 pp) to "Community Legal Education Seminar", sponsored by Commonwealth Legal Aid Commission, Melbourne, June 1979 in Boer (ed) Community Legal Education: An Australian Survey (C.L.A.C. 1980) at 150-159.

Privacy

"Privacy and Medical Records" (16 pp) to 8th Australian Conference on Medical Records, Melbourne, October 1979 in (1980) 10 Australian Medical Record 23-25.

Aborigines and the Law

"Aboriginal Land Rights in Australia: Beyond the Legislative Limits?" in R. Tomasic (ed) Legislation and Society in Australia (N.S.W. Law Foundation & G. Allen and Unwin, 1980) 382-415.

"Land Rights in the Northern Territory" (1979) 4 Legal Service Bulletin 236-240.

Keon-Cohen and B. Morse, "Indigenous Land Rights in Canada and Australia" in Keon-Cohen and Morse (ed) Aborigines and the Law, (Allen and Unwin, 1984) 74-102. (50% contribution)

"From Glass Beads to Gold Pens: The Ranger Agreement" (1978) 3 Legal Service Bulletin 225-228.

"Native Justice in Australia, Canada and the USA: A Comparative Analysis" (1981) 7 Mon.L.R. 250-325, reprinted in (1982) 5 Canadian Legal Aid Bulletin (special issue entitled "Native People and Justice in Canada") Part 2, pp. 187-258.

"The Makarrata - A treaty within Australia between Australians: Some Legal Issues" (1981) 57 Current Affairs Bulletin 4 - 19.

"Some Problems of Proof: The Admissibility of Traditional Evidence" in M. Stephenson & S. Ratnapala (eds) Mabo: A Judicial Revolution (U.Q.P. 1993) 185-205.

A. Castan & B Keon-Cohen "Mabo and the High Court: A Reply to S.E.K. Hulme Q.C." (1993) 87 Victorian Bar News (Summer) 47-60. Drafted by myself, settled by Castan Q.C.

"Indian Land Rights in Brazil" (1994) 91 Victorian Bar News, (Summer) 37 - 51

"Applications for a Determination of Native Title to the National Native Title Tribunal" in M. Stephenson (ed) Mabo: The Native Title Legislation (U.Q.P. 1995) 84-103.

"Mabo, Native Title and Compensation - or How to Enjoy your Porridge" paper to International Bar Association Conference, Melbourne, October 1994; revised version at (1995) 21 Mon.L.R. 84-115.

"Litigating Native Title during 1994" and "Pastoral Leases" (December 1994) being draft Chapters commissioned by the Human Rights and Equal Opportunity Commission for its statutory Report: see Native Title Report (AGPS, 1995).

"South Africa in Transition: Some Issues of Land, Law and Politics" (1996) 98 Victorian Bar News (Spring) 23 - 33

"From Genocide to Self-Determination: The Good Governance of Australia's Indigenous Peoples 1788-1996" in B. de Villiers (ed) Indigenous Groups: The

Quest for Coexistence (Centre for Constitutional Analysis, Human Sciences Research Council, Pretoria, 1997) 145 - 179

"The Terms of a Treaty" *The Age* 1 June 2000

"The Mabo Litigation: A Personal and Procedural Account" (2000) 24 *Melbourne University Law Review* (Centennial Edition) 893 – 951

"Introduction" in B A Keon-Cohen (ed) Native Title in the New Millennium (AIATSIS 2001) xxxv – xlvi

"Client Legal Privilege and Anthropologists' Expert Evidence in Native Title Claims" in B A Keon-Cohen (ed) Native Title in the New Millennium (AIATSIS 2001) 235 – 264.

"Ten Years After Mabo" (2002) 27(3) *Alt L J* 136 – 137

"Native Title for Politicians", chapter in G Gibson (ed) *Law for Politicians* (under preparation); chapter submitted 11/7/02, 14 pp.

"Compensation and Compulsory Acquisition under the Native Title Act" (2002) 28 Mon L R 17 – 58.

"Book Review", Richard H Bartlett, *Native Title in Australia* (Butterworths, 2004); Melissa Perry & Stephen Lloyd, *Australian Native Title Law* (Law Book Co, 2003); Marcia Langton, Maureen Teehan, Lisa Palmer, Kathryn Shain (eds), *Honour Among Nations? Treaties and Agreements with Indigenous Peoples* MUP 2004) in (2005) 31 *Mon L R* 170-189

B A Keon-Cohen & P Seidel, "The Yorta Yorta Native Title Claim: Litigation, Negotiation and Partial Settlement, 1994-2012 and Continuing", in T Bauman & L Glick (eds) *The Limits of Change: Mabo and Native Title 20Years On*" (AIATSIS, 2012) 242-62.

Constitutional Law

"The Constitutional Challenge to the Native Title Act" (1995) 1 Native Title News (Butterworths) (January) 28-33

High Court

"Mabo: Counsel's Perspective" in T Blackshield, M Coper, G Williams (eds) The Oxford Companion to the High Court of Australia (OUP, 2001), 449 – 450.

(IV) CONFERENCE PAPERS/ORATIONS (Select):

1976 "Legal Aid in Australia" and "The Family Law Act 1975" to Victoria Municipal Welfare Officers Association Annual Conference, Shepparton, Feb. 1976.

1978 "Aboriginal Customary Law" to National Aboriginal Conference sponsored Aboriginal and Islanders People Convention, Lismore, December, 1978.

1978 "The Recognition of Aboriginal Customary Law" to National Aboriginal Conference Annual Meeting, Canberra, April, 1978.

1979 "Patients' Rights" (19 pp) to Association of Medical Superintendents of Victorian Hospitals, Annual Conference, Geelong, October 1979.

1979 "The History of Land Rights in Australia" to Australian Institute of Aboriginal Studies Land Rights Workshop, July 1979.

1980 "Fleshing Out the Northern Territory Land Rights Act: The Commissioner's Jurisdiction" (40 pp) to Australian Institute of Aboriginal Studies Biennial Conference, Land Rights Symposium, Canberra, May 1980.

1982-91 Numerous addresses, panel discussions, lectures to law students, community

groups, Aboriginal groups on civil liberties, Human Rights, Aboriginal rights and constitutional issues.

- 1986 -2000 Numerous lectures to law students at Universities throughout the eastern states, on Mabo-related topics, eg. evidence, property, fiduciary and trusts, jurisprudence, constitutional, international law, law reform.
- 1990 "Law Politics and Human Rights in Australia: the Aboriginal Question: 1980-1990" (23 pp) to Law Politics and Human Rights in S-E Asia Region Conference, Melbourne University, 30-31 March 1990, sponsored by Victorian Law Institute, Amnesty International, and Centre for Comparative Constitutional Studies.
- 1991 "Can the Victorian Parliament Abolish Fundamental Rights" (15 pp) to Australian Institute of Criminology Conference, Sentencing, Psychiatry and Law Reform, Melbourne, October 1991.
- 1993 Mabo's Grandson - Sovereign Self-Government? - No Risk" (12 pp) to Mining Industry Conference, Sheraton-Wentworth Hotel, Sydney, August 1993.
- 1994 "Applications for a Determination of Native Title: The Experience So Far" (17 pp) to Mining Industry Conference, Sheraton-Wentworth Hotel, Sydney, May 1994.
- 1994 "Land Acquisition and Compensation: the Native Title Factor" (20 pp) to Australian Institute of Valuers and Land Economists, "One Day Seminar: Current Issues in a Regional Context", Geelong, October 1994.
- 1996 "Pastoral Leases and Native Title: Where To From Here", Address to Family Court Colloquium (lunchtime, 24/7/96). Session attended by Judges of Federal Court, Family Court, and Victorian Supreme Court, plus associates and others.
- 2000 "Client Legal Privilege and Anthropologists' Expert Evidence" to "Native Title in the New Millennium: Representative Bodies' Legal Conference", Melbourne, 16-20 April, 2000
- 2000 "Reconciliation, Treaties and Australian law" to "Treaties and Constitutions Representing Indigenous Peoples in the Pacific" Newcastle, 13 October 2000, symposium presented by the Laws, Societies and Cultures Research Group.
- 2000 "Problems with mapping Native Title Boundaries: Sit-Down Country and Culture Clashes" to "Beyond 2000: Daring to Change," Mapping Sciences Institute Australia national conference, Sydney, 3-6 December 2000
- 2001 "Recent Developments in Native Title", guest lecture to Sydney University Law Students, (February).
- 2002 "Issues in Native Title", guest lecture to Melbourne University Law Students (May)
- 2001 "Native Title: The Myth and the Reality", guest lecture to Years 10, 11, and 12 at Lauriston Girls' School, Melbourne (June)
- 2001 "Compensation and Compulsory Acquisition under the Native Title Act 1993", paper to the Celtic Pacific Legal Conference, Dublin, 1st July 2001.

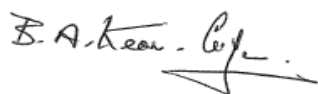
- 2002 “Mabo: Ten Years After”, address to NSW Young Lawyers Annual Conference, Katoomba, NSW, 25 May 2002.
- “Mabo and Native Title in Australia”, address to Kuala Lumpur Bar, KL, Malaysia, 20 June 2002.
- 2011 “The First Australians”, to Trinity Grammar, Melbourne, 11 November
- “Mabo and Native Title: An Overview”, Swinburn University, Melbourne, Construction and Property Management Course, 19 May.
- Commentator to Queensland Anti-Discrimination Commission bi-annual “Mabo Oration”, concerning Indigenous Intellectual Property Rights, Brisbane, July.
- 2012 “Mabo and Constitutional Recognition” to Law Institute of Victoria Conference, Torquay, Victoria; 26 February.
- “Mabo and Native Title: Recognition, Rights and Reform”, LexisNexis 4th Native Title Conference, Brisbane, 11-12 July 2012.

(V) ORIGINAL RESEARCH

- Preparation of numerous cases, especially native title trials and High Court appeals, 1982 – 2010
- Development and teaching of undergraduate elective unit, “Indigenous Rights and Relations: a Comparative Analysis”, Monash Law School, 2005 (Prato). 2006 (Clayton)
- 1978 – 2008, Research tours: Canada, USA, Brazil, South Africa, New Zealand and Australia: involved background reading, interviewing key figures, visiting and meeting with indigenous communities, government ministers, bureaucrats, NGO’s and academics, and collection of materials.
- 1978 – 1981: Senior Research Officer, Australian Law Reform Commission: field work throughout Australia, in various references, especially privacy protection (see *Privacy*, ALRC Report No 22, AGPS, 1983, 2 Vols); and the recognition of customary law (see *The Recognition of Aboriginal Customary Laws*, ALRC Report No 31, AGPS, 1986, 2 Vols)

(VI) FICTION: Short Stories

“Everywhere, Everywhen” (2010) 17 (1) *Woorilla* 65 – 69.



B A Keon-Cohen
27 June 2012.