



## Sovereign Union

First Nations Interim National Unity Government  
Asserting Australia's First Nations Sovereignty into Governance  
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### Media Release - 2 July 2013

ILUA (Indigenous Land Use Agreement) = Indigenous Land Under Attack

*Native Title lawyers and anthropologists are deceiving claimants of their true Native Title rights and interests*

Michael Anderson, Goodooga, 2 July 2013

From my involvement in the Gomeri Nation's recent experiences with mining companies, who seek to destroy our Country, it is clear that the Native Title applicants and claimants are being maliciously misled in the Native Title process. The Sovereign Union is seeking legal advice about a class action against Native Title lawyers, anthropologists and the Federal government sponsored Native Title Representative bodies.

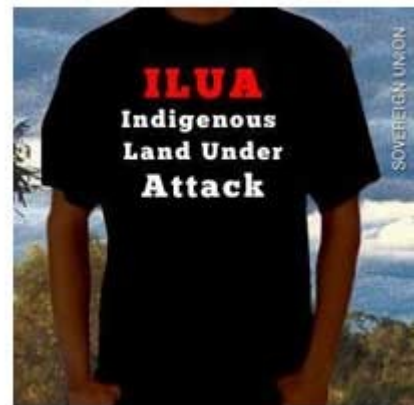
The NSW Native Title Corporation Representative body (NTSCorp), the majority of Native Title lawyers and anthropologists fail to inform the various Native Title applicants and claimants that their Law and custom incorporates, and is inclusive of, all flora and fauna that lives in and belongs to their territories.

In the Mabo No. 2 judgement the High Court held that Aboriginal connections to land under Law and custom establish a recognised legal proprietary interest in the claimed lands, waters and airspace.

Various land occupiers may hold the freehold, perpetual pastoral leases or other land titles exhaustively itemised in the Schedule to the *Native Title Act* but this does not extinguish First Nations Peoples' proprietary interests in their plants, trees, medicines and shrubs, as well as the mammals, birds, reptiles, amphibians, fish, insects and all naturally occurring living beings. Generally Native Title lawyers and anthropologists do not press these rights and interests in the Native Title process.

When one looks at how the Aboriginal Native Title rights and interests are dealt with, it is clear that the lawyers and anthropologists are not fulfilling the legal trust that has been conferred upon them.

If there is no clear and plain intention described in legislation relating to land, water, environment, biodiversity, vegetation, petroleum and gas that Aboriginal rights and interests are extinguished, then our rights and interests continue and are paramount. It is incorrect and irresponsible for lawyers and anthropologists to fail to contest First Nations' rights and interests in all these matters under our own Law and customs.



First Nations' Law and custom is made up of an inclusiveness of the native flora and fauna and natural biodiversities as they represent our Dreamings, which are incorporated under our totemic connections through our religion, spirituality and under our Dreaming.

The failure of lawyers and anthropologists to argue these facts for and on behalf of their clients is a dereliction of their fiduciary obligations, a breach of their obligatory trust.

The anthropologists' failure to clarify Aboriginal customary Law is a sheer injustice. All they need to do to understand their obligations is to read the submissions made on Yolngu Law, custom and relationship to the [Gove land rights case](#) of 1971 in the Supreme Court of the Northern Territory by the people of Yirrkala and anthropologist Ronald Berndt. In this case Justice Blackburn understood that the complexity of Aboriginal society was clearly governed by the rule of law and not of men (but he nevertheless ruled against the plaintiffs). Justice Blackburn stated:

'The evidence shows a subtle and elaborate system highly adapted to the country in which the people led their lives, which provided a stable order of society and was remarkably free from the vagaries of personal whim or influence. If ever a system could be called 'a government of laws, and not of men', it is that shown in the evidence before me. (58)

Milirrpum v Nabalco Pty Ltd, (1971) 17 FLR 141] at p. 267

Anthropologists of today appear not to want to rock the boat preferring to maintain the *status quo*, as it appears their consultancies and salaries are more important to preserve than First Nations' inherent rights. Similarly, the Native Title lawyers appear to avoid having the courts clarify the entirety of First Nations' rights and interests.

If the lawyers took their legal obligations more seriously, rather than maintaining the *status quo*, they will find that the Mabo No.2 judgement has been expanded by Canadian Supreme Court cases (eg *Guerin v R*) that where they describe and define that Aboriginal proprietary rights and interests generally are of a usufructuary nature, which includes the beneficial right to use all natural resources.

The Australian lawyers also fail to argue that under common law the 1888 Canadian case *St. Cathrine's Milling Lumber v Queen* and the subsequent decisions of the Privy Council confirm that Aboriginal rights have survived the alleged sovereign claim by the British to Aboriginal lands.

The fact that Native Title lawyers and Native Title services are eagerly encouraging First Nations people to sign ILUAs [Indigenous Land Use Agreements] without properly contesting First Nations' inherent rights is in itself a crime.

Indigenous Land Use Agreements are a convenient way of deceiving the people into divesting their inherent sovereign rights. Too often our people are signing ILUAs, unaware that they are signing away inherent sovereign rights and without being fully informed of the consequences of signing. Often the signatories are under duress from the Native Title Services Corporation and the lawyers, who pressure the applicants and claimants to sign, arguing if they don't sign they'll get nothing.

Native Title in Australia serves only to legally divest First Nations Peoples of their true inherent rights. These denials have serious ramifications for our people, economically, socially, culturally, politically.

The Federal National Native Title Tribunal is complicit in one the world's greatest legal debacles of all time, by authorising development and exploitation against First Nations' wishes while there is a legally registered Native Title claim sitting on the Federal Court books. That is to say, when a Native Title claim is registered by the Federal Court in Australia it becomes an active court case where First Nations Peoples are contesting their inherent rights to Country.

For Federal and state ministers to approve mining exploration and/or mining on and within the claimed areas is in fact a legal contempt for the court process under the *sub judice* rule, as they are permitting mining companies and developers to begin their destruction and desecration before a

Native Title case is finalised.

It is travesty of justice for the white lawyers to ignore this fact, which jeopardises a claim and falsely implies that Aboriginal Peoples have no, or limited, interest in the land claimed, where there is freehold or perpetual leases involved, or lands identified in the Schedule to the Native Title Act. It can only be assumed that the governments' ministers and the National Native Title Tribunal decisions for mining and/or development to be activated within a registered claim area is predicated on the basis that Native Title rights and interests do not exist.

At this stage, it is not all title that we are contesting, but it is our Law and custom and our connection to Mother Earth that we asserting, that is, trees, plants, shrubs, medicines, animals and all the biodiversity, including water and airspace, where we have an intrinsic cultural and spiritual links. This includes the natural resources below the ground, where our spirits travel and dwell are inherently ours under our law and custom.

The National Native Title Tribunal has breached the legal trust that is placed in them. There is an important need to now review the whole Native Title process including a need to review all the legal advice that has led to the signing of ILUAs and the crippling Native Title determinations that have been made in every State in Australia.

The Native Title lawyers, the National Native Title Tribunal, the Federally funded Native Title Representative bodies and anthropologists are engaged in a major deceitful act against Aboriginal Peoples. If ever one sought to witness an act of contempt for due process of law then this is it.

Because we are religiously and spiritually connected under the Dreaming, these actions are in direct violation of Section 116 of the Australian Constitution:

**COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT - SECT 116**

**Commonwealth not to legislate in respect of religion**

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

First Nations' Law and custom, as decreed in the Dreaming, constitutes a divine right and obligation on our part, under our Law and custom.

As sure as day follows night, if our own legal strategy leads to a class action against Native Title lawyers and anthropologists, then we will prosecute it in the most vigorous manner. Enough is enough and when you have legal firms from within the country deceiving the people who trust in their advice, then every effort must be made to correct this modern day crime against humanity.

Michael Ghillar Anderson

Convenor, Sovereign Union of First Nations and Peoples in Australia

[www.sovereignunion.mobi](http://www.sovereignunion.mobi) and [www.nationalunitygovernment.org](http://www.nationalunitygovernment.org)

0427 292 492 [ghillar29@gmail.com](mailto:ghillar29@gmail.com)