

The Mabo Decision – A Turning Point of Unfulfilled Potential

The struggle for Indigenous land rights is prominent in Australia's history and has seen both triumphs and failures. A particular turning point¹ in the matter is the Mabo decision of 1992, which saw the overturn of the notion 'terra nullius'² and acknowledgment of native title to the land by the High Court. This decision held great potential, with implications within industries such as mining and development, along with the power to make significant progress towards reconciliation and positive co-existence between Indigenous and non-Indigenous Australians. Twenty-six years later, while the positive consequences can't be discredited, Indigenous peoples are still faced with restrictions which render the potential of this turning point unfulfilled. 'Turning point' will be defined as a decisive change; the Mabo decision paved the way for consequential turning points, which is testament to the impact of the decision itself.

The doctrine of terra nullius was established during colonial settlement of Australia, as the classification of Indigenous inhabitants as 'backwards peoples'³ satisfied the requirements of International Law in order to acquire land⁴; it was under the guise of terra nullius, that dispossession of land from Indigenous people was justified⁵. While the notion was a foundation in colonial identity⁶, it was never recognised by law. Despite this, terra nullius became embedded into Australian society as a critical yet unspoken part of our national identity.

The legal implications for Indigenous Australians became obvious during the Gove case of 1971, where the Yolngu people of the Gove Peninsula⁷ attempted to stop the production of a bauxite mine, claiming it was illegal on their land without their approval. However, the case was dismissed when the court stated that Indigenous customary law was not legally binding⁸.

The lack of recognition of native title soon came to the attention of Eddie 'Koiki' Mabo⁹, a native of Murray Island in the Torres Strait¹⁰. Previously of the belief that Indigenous people were considered owners of the land, he was determined to have this recognised by law, a feat which would require overturning terra nullius. Initially, this seemed too ambitious, *'it was one man against 200 years of history'*¹¹. Eventually, Eddie garnered enough support to take his case to court; after 10 years of legal battle, the High Court handed down its final declaration on 3rd June 1992, ruling that 'the lands of this continent were not terra nullius in 1788'¹², and the Meriam people were free to enjoy native title on Murray Island. This led to the implementation of the Native Title Act in December of 1993, which meant Indigenous peoples across the country could lodge native title claims as traditional owners of the land. Tragically, Eddie Mabo passed away 5 months before the case was won, a legacy left with his final words of 'land claim'¹³.

The Indigenous culture is one that is intrinsically linked to the land, *'Our land is our life. This belief is central to Aboriginal people's existence'*¹⁴. Therefore, the significance of the decision was not lost on the Indigenous community. Geoff Richardson, an Aboriginal and Torres Strait Islander man whose mother originated from Murray Island states: *'It absolutely felt like a turning point for Indigenous people... it reaffirmed that we had rights to our own land, based on cultures and tradition passed on throughout 1000s of years, it threw out the fictitious notion of terra*

¹ <http://www.nntt.gov.au/Documents/Native%20title%20becomes%20law.pdf> accessed 9/8/18

² Dictionary definition of terra nullius is, 'land belonging to no-one'

³ P. Butt and R. Eagleson, *Mabo, Wik and Native Title*, 1998, Sydney, The Federation press, page 22

⁴ Ibid, page 21

⁵ This included the justification of 'theft of land, murder and mistreatment of its owners' – Noel Pearson in *Our land is our Life*

⁶ Ibid

⁷ See appendix 1 for map

⁸ www.mabonativetitle.com/lr_22.shtml accessed 15/8/18

⁹ See appendix 2 for a biography of Eddie Mabo

¹⁰ See appendix 3 for map of Murray Island

¹¹ Geoff Richardson, interview with the author – 19/8/18

¹² Edited by M.A Stephenson and S. Ratnapala, *Mabo: A Judicial Revolution*, 1993 Queensland, Queensland Law Journal – page 25

¹³ Dr B. Keon-Cohen, *A Mabo Memoir: Islan Kustom to Native Title*, 2013, 2nd edition, Melbourne, Zenvic Press –

¹⁴ Edited by G.Yunupingu, *Our Land is Our life*, 1997, Queensland, University of Queensland Press – page xv

*nullius, and recognised native title across the whole of Australia where it wasn't extinguished by a lawful act*¹⁵. Despite being a reason to rejoice for many, the Mabo decision held real hope and promise for the future. The benefits of possession over land were particularly linked to economic growth; according to Dr Bryan Keon-Cohen, junior counsel for the duration of the case, *'people understood the possibilities of the decision quite quickly.... It promised economic advantages [in regards to the benefits of land rights schemes for Aboriginal people]*¹⁶, which would see a turning point for communities in poverty.

Aside from the financial turning point that Mabo intended to be, it was seen as an integral chapter in the story of co-existence between Indigenous and non-Indigenous Australians, a turning point for reconciliation as such. Prior to Mabo, viewpoints of Australian history excluded acknowledgment of terra nullius or attempted to justify it¹⁷; the decision forced the government and public alike to recognise the past treatment of Indigenous people - *'it felt like Australia was becoming a country with the maturity to confront the darker side of its past*¹⁸- and discredit lies and misinterpretations surrounding First Nation Australians - *'it brought truth to the history books which was an important first step in reconciliation and healing*¹⁹. This viewpoint of history was branded 'black armband history'²⁰, and was endorsed by credited historian Henry Reynolds, who was a key influence to Eddie Mabo. With this new outlook came the hope that reconciliation would continue, *'I hope that in another 20 years we will be living in a country which has fully accepted its black history and the rights which flow from our history.*²¹ As momentous this turning point in Indigenous affairs seemed, would these hopes and promises be realised?

While many of the reactions to the Mabo decision were overwhelmingly positive, the confusion surrounding the potential of the decision caused heated debate and backlash, particularly instigated by the Howard government (in opposition at the time) and the mining industry. With new legislation regarding land use, the mining industry was uncertain of the implications that would affect them, and initially fought the decision. Many politicians also opposed Mabo - *'I'm not going to apologise for 200 years of white progress in this country*²², *'This is a day of shame for Australia*²³- and a real fear was created around the concept of native title that saw 'Australian backyards under threat'²⁴. What was seen as a positive turning point for Indigenous Australians was soon perceived by many as a negative turning point for non-Indigenous Australians, influenced by factors such as misinformation about Mabo, politics and prejudice.

Preying on these fears, Howard promised extinguishment of native title²⁵ almost before Indigenous people had a chance to use it. After the consequential Wik decision of 1996 which ruled that pastoral rights would prevail in the case of conflict with native title²⁶, he introduced amendments to the Native Title Act under the Ten Point Plan (of 1998), which intended to protect pastoral leases and make claiming native title a much more difficult and restrictive process. One of the statements Howard made in terms of justification of altering the act, was that 'the pendulum had swung too far towards the Aboriginal people'²⁷, prompting discussion as to why Indigenous Australians should

¹⁵ Geoff Richardson, interview with author

¹⁶ Dr Bryan Keon-Cohen, interview with author 20/8/18

¹⁷ H. Robert, *Paved with Good Intentions: Terra Nullius, Aboriginal Land Rights and Settler-Colonial Law*, 2016, New South Wales, Halstead Press – page 34

¹⁸ Edited by G. Yunupingu, op.cit Michael Dodson – page 39

¹⁹ Geoff Richardson, interview with author

²⁰ https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/RP9798/98RP05 - accessed 12/8/18

²¹ Edited by G. Yunupingu – page 58

²² Tim Fischer 1992, speaking in the high court, <https://www.commonground.org.au/learn/mabo-and-native-title> accessed 15/8/18

²³ Dr John Hewson, 1992 straight after the decision - <https://www.commonground.org.au/learn/mabo-and-native-title> accessed 15/8/18

²⁴ Stated by the Victorian premier at the time who later confirmed that there was no such threat <https://www.commonground.org.au/learn/mabo-and-native-title> accessed 15/8/18

²⁵ Howard's term in office began in 1996

²⁶ Dr Keon-Cohen interview with author

²⁷ Geoff Richardson, interview with author

have special rights over other ethnic groups²⁸. A decision that seemed to instil hope for reconciliation only a few years before, was now used to incite racism and discrimination²⁹. This was a significant drawback in terms of positive co-existence; the use of a pendulum itself to explain the interaction between Indigenous and non-Indigenous Australians implies there cannot be co-existence when there are two sides in competition with each other, where one must always be disadvantaged in order for the other to prosper. Richardson explains, *'What we've gained is recognition that we were here before European settlement and of our connection to land, which took 10 years to prove in court... what have we gained that needs to be taken away?'*³⁰ Only five years after the implementation of the Native Title Act, the Aboriginal and Torres Strait Islander population went from fighting for recognition as traditional owners of the land, to being accused of preferential treatment and *'the illusion that the blacks have got it all'*³¹. At this stage, fulfilment of Mabo's potential seemed far from reach, and the consequences of this turning point had not lived up to their positive expectations.

It wasn't until the early 2000's that mining companies started offering their full cooperation and upon reflection of the mining industry as a whole, a reinvention of their conduct is evident, *'when the dust settled, they realised it's their job to get the ore out of the ground and if they must negotiate [with Indigenous communities] they will do so.'*³² This cooperation can be considered a turning point as in the present day, changes by the mining industry (in order to adhere to native title legislation) are benefiting both Indigenous communities and companies themselves. The Mabo decision meant that Indigenous peoples had the right to negotiate with owners of other forms of land title, a critical step in ensuring both parties reach a beneficial deal; at the same time, this indicates progression in terms of positive co-existence, as these deals are negotiated without going to court³³. Indigenous Land Use Agreements³⁴ hold benefits such as compensation and employment for native title groups³⁵, and *'enhance their ability to generate good future prospects on their homelands'*³⁶. The economic advantages that Mabo promised are becoming a reality for some Indigenous communities eg, traditional owners have taken a stake in the company developing the Century mine in the Gulf of Carpentaria, resulting in employment for thousands of Aboriginal people, and 250 million dollars of profit to the community³⁷.

However, while many are currently benefiting from native title, other communities aren't able to do so. One of the requirements to claim native title is proof that a connection between the land and people(s) has been maintained³⁸. Providing 'proof' (in the sense that will be upheld in court) is impossible for many communities due to dispossession of land, displacement of people and the fact Aboriginal culture relies on oral testimony³⁹: *'it wasn't our fault we were taken from our country, and now all these years later we must prove that we've maintained attachment.'*⁴⁰ In such an ironic way, Indigenous people whose communities and culture have faced attempts at westernisation throughout history, must now prove their ongoing connection to the very land they were forcibly removed from, in order to enjoy native title rights. For example, in the case of the Yorta Yorta people, who sought recognition as traditional owners of the Murray and Goulburn Rivers, the court ruled that *'ongoing connection was unable to be proved by acknowledging and observing traditional customs, in nearly the same way since European settlement'*⁴¹. The judge stated, *'the tide of history has washed away any real acknowledgment of the Yorta Yorta people of their traditional laws'*⁴².

²⁸ Dr. Keon-Cohen, interview with author

²⁹ See appendix 5 for more information - <http://www.mabonativetitle.com/info/keatingSuggestFischer.htm>

³⁰ Geoff Richardson, interview with author

³¹ <https://www.commonground.org.au/learn/mabo-and-native-title> - accessed 15/8/18

³² Geoff Richardson, interview with author

³³ <http://www.nntt.gov.au/futureacts/Pages/Negotiation.aspx> - accessed 9/8/18

³⁴ Otherwise known as ILUA. There have been 1239 ILUA's thus far

³⁵ <http://www.nntt.gov.au/ILUAs/Pages/default.aspx> - accessed 9/8/18

³⁶ Dr. Keon-Cohen, interview with author

³⁷ Geoff Richardson, interview with author

³⁸ <https://www.alrc.gov.au/publications/proof-native-title> - accessed 11/8/18

³⁹ National Native Title Tribunal, *15 Years of Native Title*, 2007, documentary (DVD)

⁴⁰ Geoff Richardson, interview with author

⁴¹ Ibid

⁴² Ibid

The repressive and ‘unnecessarily severe’⁴³ native title scheme therefore prohibits many people from benefiting from native title, both economically and socially⁴⁴. This extends to other features including that native title cannot be sold and is considered a communal right, causing internal problems for many communities. It is these restrictions that have led many to believe the hopes of Mabo have not yet been realised, and will continue to remain unfulfilled until further positive consequences are evident.

Twenty-six years ago, our country saw what is proclaimed to be one of the biggest turning points in Indigenous affairs, one that saw the recognition of Indigenous people as the traditional owners of Australian soil and made it possible for them to claim native title. Dr Keon-Cohen states, *‘there’s no question that Mabo has been a positive influence for many Aboriginal communities who are fortunate enough to still enjoy traditions and customs, thus are able to benefit under the scheme. However, lots of communities cannot’*⁴⁵. It is this exclusion of communities that don’t meet the requirements of the Native Title Act, which signify the potential of Mabo remains unfulfilled and its status as a turning point can only partially be declared. Moving forward, it is vital to remember that Eddie Mabo’s legacy will not be wholly honoured until further action is taken to ensure First Nation Australians are able to benefit economically and socially from native title, and the road to reconciliation and co-existence has been paved further.

Word count: 1988

Tahlia Grammatopoulos

⁴³ Dr. Keon-Cohen, interview with author

⁴⁴ See appendix 6 for more information

⁴⁵ Ibid

Appendix

Item 1: Map of Gove Peninsula



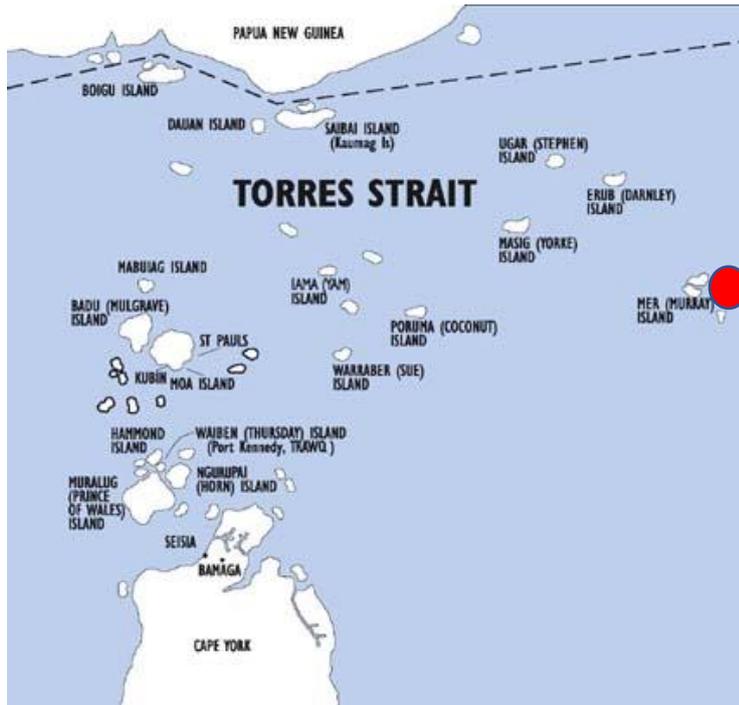
Item 2: Brief Biography of Eddie Mabo, complete from referencing to *A Mabo Memoir: Islan Kustom to Native Title* by Dr. Bryan Keon-Cohen and <https://aiatsis.gov.au/explore/articles/eddie-koiki-mabo>



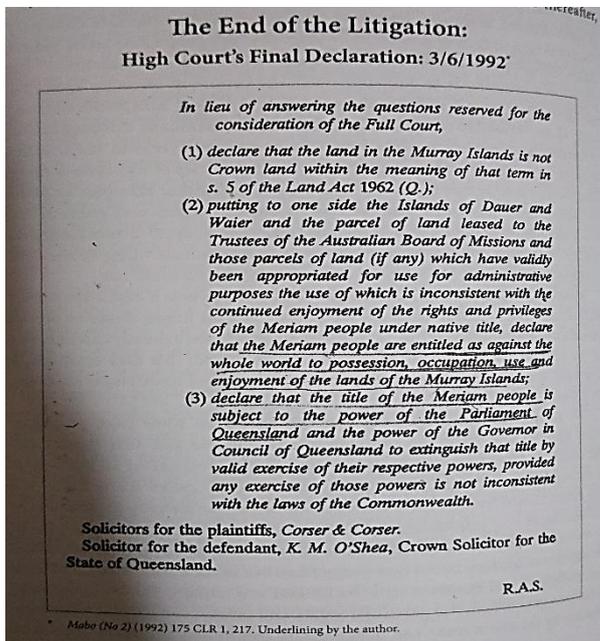
Eddie 'Koiki' (his islander name) was born on the 29th June 1936 on Murray Island and was raised by his uncle Benny. He married Bonita Neehow in 1959 and had 10 children. His interest in activism was developed during the campaign for the 1967 referendum, however it wasn't until he learnt of land rights that this took off. As Eddie was working as a groundskeeper at James Cook University, he was informed through casual conversation by Henry Reynolds (a professor there at the time) that the government owned all land and native title rights were not legally binding. Eddie was then faced with repercussions of this when he was denied access to the island in order to attend his father's funeral. He began lecturing at the university on the customs and traditions of the Meriam people, and was alerted by a lawyer in attendance that the case for native title

could be made in court. A legal team was soon assembled, including Eddie and 4 other plaintiffs (Reverend David Passi, Celuia Mapoo Salee, Sam Passi and James Rice) who fought for recognition over the duration of the case. Eddie became ill of health towards the end of the case, and died of cancer on the 21 January 1992, (aged fifty-six) just 5 months before the case was won. He is survived by his children and wife, and people of the Murray Islands who annually celebrate the anniversary of the decision.

Appendix 3: Map of Murray Island and the Torres Strait



Appendix 4: Overview of the Mabo Case, complete by reference to *Mabo, Wik and Native Title* by P. Butt and R. Egleston, and interviews conducted with Geoff Richardson and Dr. Bryan Keon-Cohen



The legal proceedings of the Mabo case began on 20 May 1982, and argued that ‘the Meriam people are entitled to Murray Islands as owners or possessors, or occupiers or as persons entitled to use and enjoy the island and the state of Queensland had no power to extinguish the Meriam people’s title.’ Debate on this case soon turned heated and aggressive – Dr. Keon-Cohen states, ‘*Queensland hated this case. They cross-examined all the witnesses ferociously*’. In the supreme court the notion of terra nullius was upheld, which extinguished native title. However, interest in the case didn’t fade and it was found by the High Court (in 1988) that this act [of the supreme court saying no] was contrary to the commonwealth discrimination act of 1975. They also considered the fact that the Meriam people were able to demonstrate an intricate system of governance over land – traditionally called Malo’s law, which is essentially the bylaws of each island and they law by which islander people live. In 1992, the High Court ruled to overturn terra nullius

and declare Indigenous peoples as traditional owners of the land, making the statement, ‘*It is imperative in today’s world that the common law should neither be nor be seen to be frozen in an age of racial discrimination.*’

Keating suggests Fischer inciting fear over Mabo

Keating suggests Fischer 'inciting fear' over Mabo

By MICHELLE GRATTAN, Canberra

The Prime Minister, Mr Keating, yesterday suggested that the National Party leader, Mr Tim Fischer, was trying to incite "fear and resentment" against Aborigines by remarks he made on the Mabo land title judgment.

Mr Keating, still formally on holiday, issued a strong statement attacking Mr Fischer over a Perth radio interview on Monday in which he said: "I am not going to apologise for the 200 years of white progress in this country. Indeed, I will take on and fight the guilt industry all the way."

In the Mabo decision, the High Court held that the common law of Australia recognised a form of native title. It rejected the doctrine that Australia belonged to no one at the time of European settlement.

Mr Keating's intervention indicates that Aboriginal affairs, in which there has been a push from both sides for bipartisanship, will be used as an election issue where the opportunity arises.

The Opposition spokesman on Aboriginal affairs, Dr Michael Wooldridge, said last night that he would not have used the form of words that Mr Fischer had. But he said Mr Keating was trying to drive a wedge between the Liberal and National parties and "I won't have anything to do with that".

Mr Fischer was interviewed by Howard Sattler, who said the Mabo decision could give Aborigines land rights all over the country areas and a lot of mining areas.

Mr Fischer replied that the Aboriginal claim on the CBD of Brisbane had perhaps

done a service because it "gave Australia a jolt as to the seriousness of the Mabo circumstances".

"The ramifications of Mabo may place in jeopardy so many mining projects across the Northern Territory, Western Australia and the like. I feel very strongly about those ramifications," he said. "The coalition... will seek to negotiate a solution. At the end of the day, if no solution is forthcoming we will legislate to provide the required certainty."

Mr Fischer said he did not belong to the

He said Mr Fischer's remarks so distorted the realities of the Mabo judgment; Australian history and the contemporary ambitions of Aborigines that "one is obliged to conclude that Mr Fischer may have intended them as an incitement to fear and resentment".

"Mr Sattler's attitudes are his own business, but a national leader like Mr Fischer should never have conspired in supporting and disseminating them," he said.

Dr Wooldridge said he agreed with Mr Fischer's position that if no negotiated set-

'I am not going to apologise for the 200 years of white progress in this country. Indeed, I will take on and fight the guilt industry all the way.'

— Tim Fischer, National Party leader



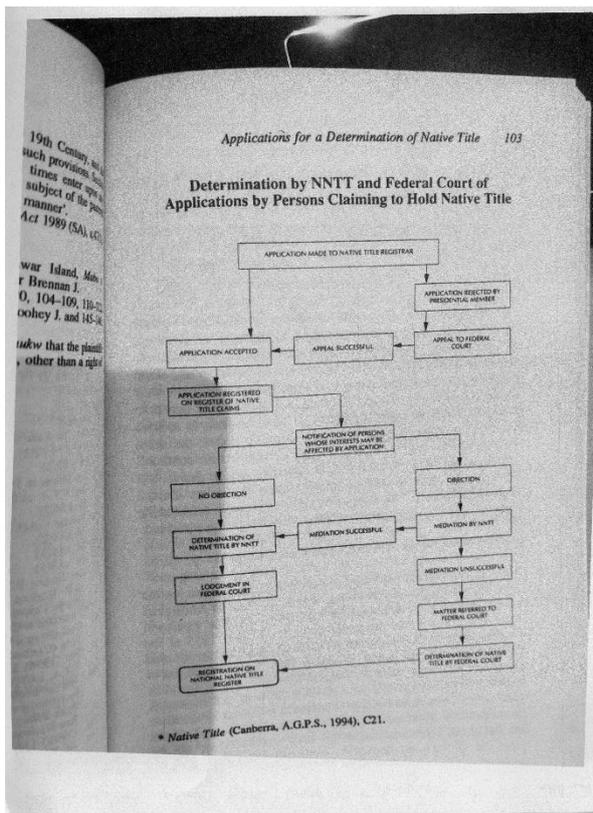
"guilt industry which says that we whites must apologise for being here for 200 years, for developing the road, rail, airport infrastructure, for providing heaps of taxpayers' money" that went to Aboriginal organisations and causes.

Mr Keating berated Mr Fischer for not rejecting Mr Sattler's suggestions about the extent of Aboriginal claims. The Prime Minister said Mr Fischer's proposition that there was a guilt industry was "a slur on the decent concern, loyalty and good will of the vast majority of Australians".

tlement could be reached, legislation would be the fallback, although he said this was not announced policy. He emphasised that if legislation were needed, it would not take away rights from Aborigines, but would be designed to provide certainty. He also pointed out that in an options paper circulated by the Government, legislation was given as one option.

The Minister for Aboriginal Affairs, Mr Robert Tickner, said the Government had a consultative process under way before it made decisions on how to handle the ramifications of Mabo.

Appendix 6 – A flow chart of the steps required to claim native title, found in *Mabo: A Native Title Legislation*

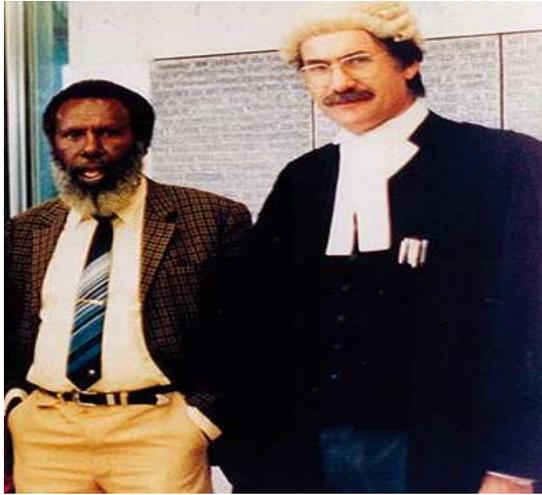


Annotated Bibliography

Primary sources:

Interviews:

Eddie Mabo pictured with Dr. Bryan Keon-Cohen



Dr Bryan Keon-Cohen, phone-interview, 20/8/18:

An interview was conducted with Dr Bryan Keon-Cohen over the phone (lasting approximately 1 hour) following a response to an email where I reached out to him in hope of clarification around the Mabo decision. Keon-Cohen is a retired barrister with many publications to his name. His association with the Mabo case began when he acted as junior counsel for the plaintiffs throughout the Mabo litigation (1982 – 1992). For the duration of the case, he worked closely with the plaintiffs including Eddie Mabo himself and the associated team of lawyers and Murray Island witnesses, appeared in the High Court in native title matters and went on to lecture on the topic of Indigenous rights. Further to this he was made a Member of the Order of Australia in 2012, and wrote his PhD

thesis entitled: *Mabo in the Courts: Islander Tradition to Native Title: a Memoir*, in 2013 (Keon-Cohen was kind enough to provide a copy of this publication for my use after the interview). Due to his extensive involvement in the case, a variety of questions were asked about the Mabo decision, however the central focus was on the legal significance, as Keon-Cohen was able to explain the implications in a way that was easier to understand than many publications. He provided first-hand accounts of his experiences over the 10 years of the case and valuable information about the ongoing effects of Mabo today.

Geoff Richardson, phone-interview, 19/8/18

This interview was conducted following a previous attempt to contact the Federal Department for Indigenous Affairs, where I was directed to Richardson. He recently retired from his position as Senior Officer in the Indigenous Affairs Group in the Department of Prime Minister in Cabinet, after working in Indigenous Affairs for over 4 decades. He is of both Aboriginal and Torres Strait Islander descent, with his mother hailing from one of the clans of the Murray Islands. While he never lived there himself, he provided information from a unique perspective, as an Indigenous person who worked in the government during the time of the Mabo case. His own family also had experience with claiming native title, as members of his father's family were able to do so as a result of Mabo. The range of questions asked particularly related to social aspects and influences of Mabo to add a certain 'human touch' to the essay. Richardson provided insightful information into the affects of Mabo for Indigenous peoples and the fulfilment (or lack thereof) of it as a turning point.

Books:

- **Australian Parliament and Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, 1996, *Sixth report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund: The Native Title Amendment Bill*, Canberra, Parliament of the Commonwealth of Australia:**
This official document was used for the purpose of clarifying facts and as sourced in the State Library. It does not appear cited in the essay
- **Legislation with commentary by the Attorney-General's Legal Practise, 1993, *Native Title: Native Title Act 1993*, Canberra, Attorney-General's Department, Australian Government Publishing Service:**
This was a copy of the Native Title Act of 1993, which was available in book format where I sought it in a library. It covered every aspect of the act and therefore provided invaluable insight into the legal

proceedings. While it was only quoted once in my essay, its content was the basis for post-Mabo deliberation and evaluation on whether the consequence have lived up to the expectations of this act.

- **Edited by G.Yunupingu, 1997, *Our Land is Our life*, Queensland, University of Queensland Press:**
This book is a compilation of papers presented by Indigenous people at a conference regarding land rights, in the Senate Chamber of Old Parliament House in 1996. Various authors are cited including Lois O'Donoghue, Michael Dodson and Marcia Langton. The theme of the conference was centred around 'our land is our life', covering elements of land rights from history and intrinsic connection, to (then) current threats to land. It was utilised for the purpose of gaining an understanding from the perspective of Indigenous communities into the importance of land rights and connections.

Newspapers:

- **M. Grattan, 1992, *Keating suggests Fischer 'inciting fear' over Mabo*, The Age, Canberra, accessed at <http://www.mabonativetitle.com/info/keatingSuggestFischer.htm>**
This article provided an insight into the fear mongering that occurred around the time of the Mabo decision. It showed the impact of politicians on the public and the true fear that surrounded Native Title. In particular it focuses on argument in between Paul Keating and National Party Leader Tim Fischer, infamous for the statement, '*I will not apologise for the 200 years of white progress in this country*'. The debate that the article presented was analysed and cited appropriately in the essay.
- **M. Easterbrook, 1993, *Blacks, Miners join in plan for cooperation*, The Age, Canberra, accessed at <http://www.mabonativetitle.com/info/blacksMinersJoinPlan.htm>**
Through this article I was able to understand the initial intentions of mining companies and Indigenous people working together on Native Title, and the expected benefits of doing so. It was interesting to compare what was initially wanted verse the outcome, which of course showed irony in the fact that many mining companies were against Native Title for a long time. The article does not appear referenced in the essay but was more for understanding.

Videos/Documentaries:

- **ABC News Australia, 2012, news piece about the 20th anniversary of Mabo, accessed at <https://www.youtube.com/watch?v=e2KPAuwYfs>**
This video was a news piece that appeared on ABC news in 2012 as a recognition of the 20th anniversary of Mabo. In the 6-minute long video, appears interviews of Meriam people of the Murray Islands, including one of Bonita Mabo, Eddie Mabo's wife. The video was used to gain an insight to the significance of the decision for the Meriam people and the ways in which it was still affecting them.
- **National Native Title Tribunal, 2007, *15 Years of Native Title*, documentary (DVD)**
This documentary focused on individual cases relating to Native Title and its influence, primarily the Yorta Yorta and Wik cases. It was used to quote the people of the Yorta Yorta region (the judge of the case is cited in the essay) and understand the effects of Mabo through their perspective.

Secondary Sources:

PhD publication:

- **Dr B. Keon-Cohen, 2013, *A Mabo Memoir: Islan Kustom to Native Title*, 2nd edition, Melbourne, Zenvic Press**
After talking with Dr Keon-Cohen, he suggested that I look at his PhD publication as it provided further detail to our conversation. As this was quite late in my research, I was only able to briefly look through the book but it was especially useful for details about Eddie's life and for a general overview of the proceedings of the

case. The book also contained copies of many documents relative to the case, so I included multiple of these for reference in my appendix.

Books:

- **P. Butt and R. Eagleson, 1998, *Mabo, Wik and Native Title*, Sydney, The Federation Press:**
This book provided good insight into the political and legal issues surrounding the Mabo decision. It wasn't particularly written for the non-lawyer, so in parts it proved difficult to understand and comprehend the concepts. However, it was useful in helping to familiarise myself with legal jargon and become aware of the official legal actions surrounding the case. Explanations of the legal implications (or lack thereof) of Terra Nullius during colonisation were particularly useful, and the post-Mabo section that dealt with legal amendments aided in providing a modern legal insight.
- **H. Robert, 2016, *Paved with Good Intentions: Terra Nullius, Aboriginal Land Rights and Settler-Colonial Law*, New South Wales, Halstead Press:**
The primary purpose of utilising this book was to gain understanding into colonial Australia, and the implications of colonial actions in today's society. By providing insight of renowned historians and outlining detailed accounts of colonial times, I was able to obtain adequate understanding into this period of Australian history. In particular, the explanations of the social implications of Terra Nullius were useful in determining its impact in colonial times as well as how it had been essentially ignored by the Australian majority.
- **Edited by M.A Stephenson and S. Ratnapala, 1993, *Mabo: A Judicial Revolution*, Queensland, Queensland Law Journal:**
This book is a comprehensive collection of works by the likes of Frank Brennan, Noe Pearson and Henry Reynolds, published as a special edition by the Queensland Law Journal. Through reading specific chapters of this book, I was able to understand the links between the law and action; this is meaning to say that the book provided useful details into how legal action has affected aspects of Indigenous life such as receiving compensation and the beginnings of reconciliation.
- **Edited by M.A. Stephenson, 1995, *Mabo: The Native Title Legislation*, Queensland, University of Queensland Press:**
This book was used entirely for the purpose of the flow chart of steps that must be taken in order to claim native title, which appears in the appendix.

Websites:

- **Mabo and Native Title. 2018. Mabo and Native Title. [ONLINE] Available at: <https://www.commonground.org.au/learn/mabo-and-native-title>. [Accessed 25 August 2018].**
This website provide clear and concise information about the negative social implications of the Mabo decision, around the period between the High Court's ruling and the Native Title Act of 1993. I utilised quotes about the 'white guilt industry' namely those claiming that backyards were under threat. This helped to create a better picture of the true dynamics of the time.
- **National Native Title Tribunal. 2017. 25 years of Native Title recognition. [ONLINE] Available at: <http://www.nntt.gov.au/Documents/Native%20title%20becomes%20law.pdf>. [Accessed 9 August 2018]**
This was a pdf file of the significant advancements to Native Title in the past 25 years. It was used to quote Paul Keating as it contained a transcript of a speech he made in 1993. This was useful in clarifying the importance of the Mabo decision.

- **Different Perspectives on Black Armband History – Doctor Mark McKenna. 2018. Different Perspectives on Black Armband History – Parliament of Australia . [ONLINE] Available at: https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/RP9798/98RP05. [Accessed 12 August 2018].**
This report was useful in explaining the origins of black armband history and its contrast with previous outlooks on Australian history. It also detailed the conflict between this outlook and more conservative views.
- **theaustralian.com.au. 2018. Nocookies | The Australian. [ONLINE] Available at: <https://www.theaustralian.com.au/opinion/promise-of-mabo-not-yet-realised/news-story/d32fcf06fd203856a9f3f1b850bd70a4>. [Accessed 20 August 2018].**
This article written by Noel Pearson explained from his perspective, why Mabo had not yet reached its potential and the areas which lacked advancement. His article posed similar questions to my essay and it was a useful read in regards to comparing information.
- **Mabo and Native Title. 2018. Mabo and Native Title. [ONLINE] Available at: <https://www.commonground.org.au/learn/mabo-and-native-title>. [Accessed 15 August 2018].**
This website was used to clarify facts about the Mabo case. In terms of new information it included a section about white guilt industry and the fears surrounding the decision. These were investigated further and the original sources located.
- **Negotiation . 2018. Negotiation . [ONLINE] Available at: <http://www.nntt.gov.au/futureacts/Pages/Negotiation.aspx>. [Accessed 3 August 2018].**
Statistics about the number of Indigenous Land Use Agreements, negotiations claims etc were found here. The National Native Title Tribunal is solely responsible for these archives which can be accessed on their website. In terms of collecting data this fact sheet/statistics page was very useful.
- **Proof of native title | ALRC. 2018. Proof of native title | ALRC. [ONLINE] Available at: <https://www.alrc.gov.au/publications/proof-native-title>. [Accessed 11 August 2018]**
Information about the requirements that need to be met in order to claim Native Title were found here. This was useful in explaining how difficult the process is and arguing that it is too restrictive. s