Fine words but few deeds

By Wayne Atkinson-Yorta
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"LET me first observe the appropriate indigenous
protocols by recognising the traditional owners of the lands on which this particular event is taking
place today."

These words have become common practice in indigenous affairs etiquette today. But are they
token gestures, used by Government officials to cover the dismal picture of indigenous land justice
in Victoria?

The Victorian Government has a shameful legacy in regard to indigenous land claims, and it still
lacks the political will to deal with the matter in a fair and just manner. But the indigenous
solidarity protest in Kings Domain that has continued since the Commonwealth Games has
returned the issue of land justice to the public agenda.

The path to indigenous land justice in Victoria has been hard and the returns have been minuscule.
In 2006, the status of indigenous land justice in Victoria is one that can be indicated with a dot on
the map. Indigenous Victorians have been returned the derisory amount of less than a half of 1 per
cent of their ancestral lands. Until the late 1990s, the amount of land held was 0.014 per cent. This
has increased marginally in 2006, but the overall amount is still less than a half of 1 per cent.

This does not include the 2005 "consent agreement" reached by the claimants in the Mallee-
Wimmera region, which the court states is "not a grant of native title". The agreement offers no
ownership or exclusive rights over land and waters, and provides for no more say over its
management than settler interests. The claimants' traditionally based rights to occupy, possess and
enjoy the 2 per cent of their claim area along the Wimmera River have been normalised to the
extent that their inherent rights to continue to camp, fish and enjoy the land and waters, as their
ancestors did, are treated the same as those of other Victorians.

In exercising these rights, they will also be required to comply with the imported Anglo laws and
regulations that govern these activities. Should there be any inconsistency between the native title
rights of the claimants and the rights of other licence holders, the latter's rights prevail.

The question of whether this is land justice or continued dispossession by stealth is of critical
importance.

The nature of the title and rights returned to Victoria's original owners by government grants,
transfers and the purchase of land is worth noting. Most of the land has been returned under
inalienable freehold title, including some small areas that contained Aboriginal cemeteries. Some of
the land was granted and/or purchased on the condition that it is used for Aboriginal cultural
purposes, and in all the lands acquired, the Crown retains certain rights and interests, including the
right of veto over mining.
The lack of progress towards land justice in Victoria made by the Bracks Labor Government offers little joy to indigenous Victorians following the expressions of regret made by the last two Labor premiers, John Cain and Joan Kirner, during the reconciliation process. Regrets for not being able to do enough for indigenous Victorians during their period of office are fine sentiments, but their failure to deliver is our loss. Feelings of regret may well be exacerbated for the Bracks Government, which, unlike its predecessors, has the numbers and the power to deliver land justice to indigenous Victorians.

Added to this rather embarrassing track record is that Victoria is the only state, apart from Western Australia, that has not introduced a formal statewide land claims process for indigenous claimants.

All other states and territories, including Tasmania, have introduced land claims processes that allow indigenous claimants to achieve some degree of land justice on the basis of traditional and historic connections and on the basis of the need for land.

Cain's commitments to land justice in

the early 1980s had some success but his attempts to introduce a state land claims process, the Aboriginal Land Claims Bill of 1983, failed because he did not have the numbers in the upper house — a privilege that the present Government has. Whether this Government is morally and politically committed to rectifying the legacy of dispossession remains at the front of the unfinished business agenda.

The cultural heritage draft document of 2005 and its attempts to undermine the rights of ownership and control of cultural heritage by indigenous Victorians has already met strong opposition from traditional owners. But Victorian Aboriginal Affairs Minister Gavin Jennings' ability to achieve greater positive social, cultural and economic outcomes for indigenous Victorians is exemplified in a radio interview in which he said that "he is prepared to roll up his sleeves and get a bit of dirt on his hands". An obvious step would be to set up a land claims process that will allow for a lot more dirt to be restored to Victoria's traditional owners than has been the case so far. Taking away or diminishing any of those hard-fought cultural heritage reforms that Kooris achieved in the 1980s will produce negative rather than positive outcomes for indigenous Victorians.

Attorney-General Rob Hulls seems to go much further by acknowledging the legacy of dispossession. In his talk at the announcement of the Wimmera determination last December, Hulls admitted that: "We are complicit in this atrocity, unless we can return autonomy and integrity to our relationships and reunite grieving custodians with the home lands they so love." Fine sentiments again, but matching the rhetoric with the political action required to rectify complicity and to alleviate feelings of grief are the moral and political challenges that confront the Government and indigenous claimants in 2006.

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