'Constructing Indigenous identity through Western Eyes: The Yorta Yorta Case'


Extract from Yorta Yorta Native Title Trial, 1997:

Mr Howie: “What happens if you’re without the land, if the land is taken from you and you don’t have access to it?”

Neville Atkinson: “That’s like taking away something from us that’s essential for us to have as our whole being and makeup.”

Mr Howie: “Is it an interest just in dirt?”

Neville Atkinson: No. It’s water, trees, animals, plants, us, all that one (Transcript 3052).

As can be seen from this extract, attempts to construct Indigenous (Yorta Yorta) identity, culture and relations to land, through Western eyes has many inherent deficiencies. The image also exposes the arrogant and degrading nature of the Native Title process. In a scene that typifies this process, Neville Atkinson, a key witness in the Yorta Yorta case, is before the court answering a litany of questions put to him by white lawyers, while Justice Olney is sitting back, contemplating whether or not Neville’s evidence fits into his imported framework of native title. Any native title holder familiar with this process will know of its arrogant often humiliating character. Some of our people have already taken these rather harrowing experiences back to the eternal dreamtime with them, having realised no substantive land justice in their time. Others have continued the struggle for what they claim is theirs, and that it “always was and always will be Yorta Yorta land” and -nothing will ever change that reality (Yorta Yorta Nations Inc, 1999). Having to prove what is inherently yours by birthright, while settler society enjoys the legal consent and protection of its security in land, exposes the Anglo centric nature of the Native Title process. The purpose of this paper is to examine whether these constructs and other legal and political factors including local media
representations of the Yorta Yorta case, combined to pervert the course of justice in their Native Title Claim (1994-2002)?

The construct of ‘the West’ functions as part of a system of representation, which allows us to characterize and to classify societies into different categories i.e. Western/non-Western, Black/White, Muslim/Christian and helps to explain difference (Hall 1992: 277). But as Hall (1992:293) writes, this discourse of the ‘West and the rest’ is never objective and value free, nor is it an encounter between equals. In Orientalism, Said (1978:3) demonstrates how the representation of otherness serves the direct purpose of enhancing Western superiority. “European culture,” he writes (1978:3), “gains strength and identity by setting itself against the orient (or other) as an inferior self.” As witnessed in the current multiculturalism debate, this discourse is often used to manipulate the constructed binaries of the us and them mentality. It involves picking a cultural group who most non-Indigenous people are ignorant of, who may be on the bottom of the social ladder in many ways, and to construct negative images of those who are seen to be different from the general western norm. Putting groups down or painting them in a negative way has been common practice in Australian political debate. It is often used to distract attention away from the broader socio-economic and political agenda, to create discord and hostility within the populace, and to score political points for its perpetrators (Habermas, 1995:41). Put down cultural discourse is another term used for this aged old practice, which seems to have become more of an art form in 21st Century Australia. The culture of fear, division and denial, was most evident in the Yorta Yorta case. This was aided and abetted by the local media who were responsible for presenting erroneous and biased reports on the Yorta Yorta Native Title proceedings.

McPherson Media is the major publisher of local newspapers within the regional centres of the Yorta Yorta claim. Hit the ‘our sites’ button on McPherson Medias home page, and you will find that it not only owns but assumes editorial control of ten local newspapers in the region (http://news.mcmedia.com.au/). Two of their largest publications are the Shepparton News and the Riverine Herald, Echuca. These two papers are located in the towns where most of the proceedings of the claim took place—see map of media distribution and traditional Yorta Yorta lands.
The power of the Media and its role in influencing public opinion on Indigenous matters in a balanced, and unbiased manner, came under scrutiny during the proceedings of the Yorta Yorta Mediation process, and the Federal Court trial, 1994-1998 (National Native Title Tribunal, (27-29 September 1994). It first came to the notice of Justice Gray during the Mediation process in Shepparton in 1995. Justice Gray was critical of the way reports were being made by the local media and particularly of the conduct of its proprietor Ross McPherson and leading journalist Geoff Adams (Transcript of Mediation, 1995: 239-40). The issue was again raised by Justice Olney at the Federal Court hearing in Echuca, 1997 in which McPherson was criticised for what was seen to be inaccurate and often biased coverage of the Yorta Yorta claim (Federal Court of Australia, Victoria, (Monday, 13 October 1997), Transcript of Proceedings (Auscript), No. VG 6001 of 1995, Olney J., Yorta Yorta Aboriginal Community and Others & State of Victoria and Others, Echuca, pp. 10134, 10123-37). Indeed, McPherson, as editor-in-chief of his media outlet, admitted under oath, that his personal opinions about the claim were being given prominence in the Shepparton News (Schoenborn, 2003:6-7). That a person who was officially opposed to the claim as a respondent to also have control of the region’s local media outlet is quite staggering. Moreover that the same person was, by self-admission, willing to promote his own anti-claim opinions through newspaper content, is a clear indication of, the power and the political role that the media plays in influencing public opinion on Indigenous issues within the region (ibid, 2003:6-7).

As a claimant and a participant in most of the judicial proceedings of the Yorta Yorta case, I have a vivid recollection of that particular day in court in Echuca, when it was the Medias turn to be put under the hammer. Ironically the person sitting next to me and reporting on the deliberations at the time was a young budding journalist from one of McPherson’s main media outlets, the Riverine Herald Echuca. After witnessing the exchange that took place, and the public attention that a major local media proprietor attracted, I was extremely interested to see how and if the story would be reported. Indeed if any story was to be told, the reality was, it would not only be about someone who was ultimately the journalist’s boss, but a person who by virtue of their position, would be able to exercise editorial control over matters that may have been published.
Interestingly, and at least to my knowledge, there was nothing reported on the substantive question of inaccurate and biased media representation of the Yorta Yorta case, by McPherson media, not to mention the implications of this style of reporting and its effect on Indigenous members of the community. That the media was exposed for its complicity in preserving the dominant culture by manipulating and manufacturing public opinion, is an example of how the construct of the other is used to maintain the status quo in the claim area. I will return to the role of the media in the broader analysis of the Yorta Yorta struggle for land justice.

Assumptions and misconceptions about Indigenous Australians have been a significant feature of the discourse of colonisation since 1788 - the difference now being, that what was explicit in driving the practices and policies of colonial Australia has become more implicit in the present political discourse. Colonization however was not necessarily a particular point in time, rather it is a process that I would argue, has continued in more subtle and covert ways. There is a continuing practice where the State now relies on its dominant political, legal and social frameworks to marginalise Indigenous people from mainstream society, and to deny them of their legitimate rights to land, culture and self-rule. This is what is meant by the term that Beckett & Roberts (1987, 1994) describe as ‘internal colonialism’, the key characteristics of which is; the appropriation of Indigenous lands and systemic discrimination which serves to subjugate and to entrench inequality. The continued domination and marginalization of Indigenous Australians is usually rationalised by ideologies based on antiquated beliefs of racial and cultural superiority (Roberts, 1994: 212-236; Beckett, 1987: 185-87). The most sneaky and pervasive manifestation of internal colonialism is that it has become more endemic throughout the structures of society including the media. The way the Howard Government has been able to manipulate this discourse, to shore up its political agenda, is a good example of internal colonialism at play (Bell, 2006).

From the beginning of settlement, Australia represented Indigenous people in a similar manner either as a ‘primitive dying race,’ unable to adapt to modernity or stuck in some sort of romanticized simplistic existence. This representation of the “savage” living alongside the “civilised”, worked to enhance the status of white Australians and to construct Indigenous people as being inferior (Maxwell 1999:137). It is a large part of the way Australia has historically sought to dis-empower the Indigenous person for its own advantage.

The struggle to achieve land justice against a background of internal colonialism, preconceived notions of Aboriginality, and biased media representations, was a key impediment in the Yorta Yorta Community v The State of Victoria & Ors [1998] - the Olney Decision. A critical appraisal of the role that this mindset played, as the dominant discourse in the Yorta Yorta case, and the way that it was used to support western constructs of our native title rights, will be the key framework of this paper. Some background on the Mabo debate that lead up to the Yorta Yorta Native Title Claim (1994-2002) is an essential starting point.

Mabo, No2 (1992), saw a turning point in Australia’s shameful past. Exposing Terra
Nullius as a legal fiction, the High Court recognised that a traditional legal system, customs and ownership of land markedly different from the imported legal system, operated very efficiently, long before Europeans arrived (Spindler 1999:17). Native title acted as a new path to empowerment for Indigenous Australians. But the legal principle of recognizing prior rights to land was subsequently construed as a sinister image that posed a threat to settler society’s security in land. The negative images of native title that were invented during the Mabo debate, helped to distort the security of tenure in regional Australia and to demonise the principle of land justice for Australia’s original land holders. The debate was further intensified by governments and vested interest groups who waged a fear campaign against Mabo. That Australians’ “own backyards,” and “main streets” in regional Victoria were under threat from native title claimants are some examples of the scare mongering and consequent fear that was whipped up during the anti Mabo campaign (Atkinson, 2000: ). The representation of the other, this time coming to invade “our homes and to take our land was again being used against Indigenous people. Keeping in mind, it was a decade before Mabo, that similar campaigns were waged against the principle of land rights which again was construed as a threat to individual property. The image of a sinister black line emerging across the country, encroaching on private property was the ultimate, in the fear provoking campaign of the 1980s. The media again played a key role in manufacturing and perpetuating negative images.

It was in this hostile climate of land rights propaganda that state and federal governments worked to deny Indigenous people of what are no more than their long and overdue entitlements. Being familiar with the practice of colonisation, which by now had became more internalised, the Yorta Yorta lodged their Native Title Claim (YYNTC, 1994-2002). The claim could never be for people’s backyards. It was for a patchwork of crown land that consisted of 2,000 square kilometers (10 percent) out of an original 20,000 square kilometers of their ancestral lands in the Murray-Goulburn region-(see shaded area in heartland of Yorta Yorta territory in map, p.2). While the legal framework of Mabo and the Native Title Act, 1993, confirmed the fact that private land could not be claimed this did not deter the concerted attack on Indigenous claims to residual areas of crown land on which native title rights may have survived - the leftovers from settler society’s pickings (Atkinson, 1994:38).

From the outset the Yorta Yorta were confronted with the mindset of opposition that had been whipped up to defend the interests of the status quo within the claim area. These were the barriers that the Yorta Yorta had to try and weave their way through, like that of a tight rope walker, being ever conscious of not taking a step that would give ammunition to the opposition’s agenda. The most significant of these barriers was the constructed stereotype of Aboriginality that was firmly planted in the minds of the opponents of native title, and as we will see, in the mind of the presiding judge. Justice Olney came to the Yorta Yorta context from his prior experience as a Land Commissioner in the Northern Territory under the Northern Territory Land Rights Act, 1976. Whether preconceived notions of Aboriginality and the dichotomy of the real and not real Indigenous Australians, were imported into the Yorta Yorta context, from the judge’s enlightenment in the North, is a moot point.
The stage was set for what many believed was to be the ultimate struggle for land justice, determined this time, not by the barrel of the gun, but by the letter of the whitefella law.

The Yorta Yorta presented their case with calm and with dignity, calling on 60 witnesses, of whom 54 were direct descendents of the identified ancestors who were oncountry at the imposition of British authority. The extent of opposition to the claim included three state governments (Victoria, New South Wales and South Australia), six local government councils and shires, rural water authorities, Telstra, and a large number of corporate interests in irrigation, timber, tourist and mining industries. Nine different firms of solicitors and legal counsel, a prominent regional media proprietor and local conservative members of parliament who regularly expressed views in regional newspapers, stacked up against the Yorta Yorta (Alford 1999: 41). This is what many of us witnessed as the rise of the burgeoning native title industry.

The trial was clearly part of a wider ongoing struggle between parties of greatly unequal power. The degree of opposition encountered and the allocation of millions of government dollars to oppose the claim is an example of the barriers that confronted the Yorta Yorta. This is what I saw as status quo politics and internal colonialism at play. That is the letter of the law as an instrument of justice, was subverted by the political factors of the day to empower and to serve the interests of the dominant society. Internal colonialism, and the politics of denial, rather than the rule of the law, played a crucial role in determining the outcome of the Yorta Yorta case. In asserting their rights the Yorta Yorta took on the privileged and the powerful in regional Australia, who set the rules and determined the outcomes (Clifford 1988:284).

On 18 December 1998, the Yorta Yorta claim was rejected by Justice Olney on the basis that a continuing connection to the land has not been maintained from the time of settlement to the present (Members of the Yorta Yorta Aboriginal Community v The State of Victoria [1998] 1606 (18 December 1998: The Olney Decision). In order to prove their connections the Yorta Yorta were required to fit into what was alluded to at the start of this paper as Western and imported notions of Aboriginality. Yorta Yorta culture, tradition and connections to their ancestral lands did not evolve over time like all cultures do but were frozen in a time warp by Olney. The cartoon below is a graphic illustration of the absurdity of such an antiquated and deplorably naive proposition.
In my teaching of the Yorta Yorta Struggle for Land Justice, I like to use this image to expose the way that the law was applied in the Yorta Yorta case and to challenge prevailing misconceptions. I often say to students that if we take the image in its literal translation, then you would be excused for thinking that I might be a figment of your imagination standing here before you today. Or perhaps, I should be standing here dressed in full tribal regalia, with lap lap on, holding a spear in one hand, with an interpreter next to me translating what I am saying. This was the frozen in time and place view of Indigenous society, and the quandary that the west constructs to perpetuate misconceptions of Aboriginality in today’s world. I will return to this rather bizarre and ludicrous proposition shortly.

As Kirby (HCA transcript 2002: para. 117) writes, “the essential question of whether a community has ceased to exist is to be answered solely by... the observations of those who are not or were not members of the community.” (But members of Western society). In order to prove connections, Yorta-Yorta must access a white legal system, which clearly privileges written testimony, over oral, which is the medium through which their tradition is submitted. Furthermore in the native title case the relationship to the land is perceived in experiential terms, privileging physical (European sources and property rights) rather than Indigenous perceptions of their connections. Ignoring the Indigenous holistic approach to viewing the relationship between land, water and other living entities were other ways in which western criteria of understanding were imposed on the Yorta Yorta testimony (McGuire 2003: 137). These issues demonstrate that the law or at least the way it is being applied by its agents, continue to see Indigenous identity, tradition and relations to land through Western eyes.

Olney held that the claimants had to prove maintenance of their connection with the land from settlement to the present day in accordance with the traditional laws and customs as they were in 1788 (Bartlett 2003: 35). In order to do this the Yorta Yorta people put forward 18 known ancestors as evidence of a genealogical line of descent. Their witnesses cited traditional beliefs and customs, and described the importance of burial places, middens and other sites located in their territory (Glanz 1999: 25). They showed how their people use land and water in accordance with traditional laws, such as
burial and fishing practices, which are part of Aboriginal culture, and had developed from the traditions of their Yorta Yorta ancestors, who lived long before settlement (Alford 1999:41). Colin Walker recalls how “many a times he would make a journey with his grandfather across the lakes and his father would tell him about traveling with his father and grandfather before him (Atkinson 2000: 8.1).” But Olney maintained that, “these issues are of relatively recent origin about which the original inhabitants could have had no concern and which cannot be regarded as matters relating to the observance of traditional laws and customs (HCA transcript 2002: para. 162).” Therefore these are not within the legal system’s conception of ‘native title.’ A number of witnesses gave evidence that they engage in fishing as a recreational activity and only take such food as is necessary for immediate consumption. But Olney observed that such practices were not “one with which according to Curr’s (a white mans) observations was adopted by Aboriginal people with whom he came into contact and cannot be regarded as a traditional custom” (HCA transcript 2002: para. 162).

The need for Indigenous peoples to prove that they are the same as what colonists of the 1800’s described as “beasts of the forest” or that they are sufficiently “native” demonstrates the way Indigenous people are still confined by racist representations of the Indigenous other. (Kerruish and Perrin 1999:3). This notion of tradition being “frozen in time” is romanticized and oppressive for Aboriginal people who have had to survive and adapt through dispossession and modernity (Bartlett 2003: 37). An explicit example of this was when protestors of the Olney decision (at the Federal Court Full Bench hearing, of the Yorta Yorta appeal) dressed in colonial costumes to illustrate the absurdity of demanding that the cultural practices of today be identical to those at the time of settlement (Castan and Kee 2002:85).

There are far less discriminatory ways to prove traditional connections. Justices Kirby and Gaudron thought that although the definition of native title demands a necessity for continuity with the past, laws and customs could be considered traditional even if they do not correspond exactly with the laws and customs observed prior to European settlement (HCA transcript 2002: para. 118). It is not necessary to prove a continuous process of connection but to demonstrate that the contemporary connection like in all societies has evolved over time and place. It should be more a question of whether, throughout the period in question, there were people of Aboriginal descent who identified themselves and others as members of the Yorta Yorta people, bound together by ancestry and by shared beliefs (HCA transcript 2002: para. 119). This way dispersing and regrouping would not necessarily result in the cessation of an “identifiable community.” This takes into account the evolution of tradition and is far more compatible with Indigenous culture. The process of change adaption and continuity, which is a common phenomenon to all cultural groups, and one that has been happening over the millennia, is not considered in the Yorta Yorta case. It is one of the many quandaries as previously mentioned, that Indigenous people find themselves in when being measured through western eyes. That is you’ll be damned if you don’t adapt to change and so called modernity and you’ll still be damned if you do. It seems that whatever path you may choose to take you still have to fight for what is rightfully yours, before a western system that sets the rules and determines the outcomes. Many
Indigenous people including myself are continually confronted with these structural barriers to racial equality and justice within the social, political and legal processes.

It is clear that the Yorta always have and still remain a distinct cultural identity and community with their own internal structures, of beliefs customs and traditions, distinct from that of the non-Indigenous people surrounding them (Atkinson 2000: 8.11). The battle for land rights in this area has been going on for over a century and a half, from the land wars of the 18th century, to the 1939 walk off Cummeragunja reserve, and the land claims of today. Monica Morgan cites such incidences as evidence “of a chain of life and resistance, each generation holding the hands of the previous as far back as oral history will allow and further” (Glanz, 1999:25).

In Olney’s ruling the Australian legal system has failed to give recognition and protection to those native title rights and continued customs and practices of the Yorta Yorta, because they don’t fit into the Judges preconceptions of what is a real Aborigine, and they don’t measure up in accordance with Western constructs of tradition.

**Western mediums of knowledge transmission**

To reach his conclusion Justice Olney relied heavily on the memoirs of Edmund Curr, (1883), one of the first white pastoralists to enter uninvited into Yorta Yorta country in the early 1840s (Reilly 2001:143). Callinan states (HCA transcript 2002: para. 155), “he did this largely because Curr had enjoyed the advantage of having, nothing to gain from his accounts,, and had a last opportunity to observe an Aboriginal society before it disintegrated.” In its favoring of historical evidence the court failed to acknowledge that Curr was writing as a colonial trying to provide a justifying ideology for colonisation, which could only be validated by Aboriginal people having no prior interests or sovereign rights to the land. Curr wrote that “Blacks objected to hunt with me over certain land, on the pleas that it did not belong to them... They had particular rights to certain lands but practically they were little insisted on” (HCA transcript 2002: para. 155). Justice Black of the Full Federal Court hearing warned about over emphasis of historical record and asserting a version of history as objective or as absolute truth as in the Yorta Yorta case particularly when it is being presented through the eyes of one single cultural perspective (Reilly 1999: 143).

In response to Curr’s evidence, the Yorta Yorta people gave oral testimony of their traditional and present day connections. Well over half (54 percent) of the Federal Court transcript of evidence (11,777 pages) was based on their oral history. Where Justice Olney was “very favorably impressed by the written evidence assembled by the opponents,” he said evidence based on oral tradition, “might be an embellishment by the recipients of the tradition (Alford 1999:43).” Curr’s interpretations which he did not pen until some forty after the event in his “Recollections of Squatting in Victoria, 1883”, were held as absolute truths and yet the same allegations of embellishment and or scrutiny was not applied to Curr's knowledge. Curr was only in Yorta Yorta country for a decade from 1841-51 which would hardly qualify him as the absolute truth in the nature and the complexity of Yorta Yorta traditional based laws and customs. Justice
Black of the Full Bench of the Federal Court appeal of the Olney decision, 2001 rejects this proposition stating that to answer a claim based substantially on an orally transmitted tradition one needs to take into account the strength of orally based traditions (Reilly 2001: 144). If Black’s advice is ignored, the entire legal system will continue to construct Indigenous traditions in purely Western terms.

In order to establish a claim the law insists on perceiving claimants’ relationship to the land and sites in Western observed terms. Callinan states (HCA transcript 2002: para. 139), “there was no evidence offered to indicate the precise basis upon which the boundary of the region was drawn. It was not related to any identifiable geographic feature.” This fails to recognise that an area of spiritual significance cannot be mapped out the way a purely physical site could. Mudrooroo (1995:33) writes, “It is a materialist view of what spirituality is...” This is paradoxical in that native title is defined as a purely indigenous relationship to the land, separate and distinct from common law notions of property but the relationship is perceived in the common law rhetoric of property (McGuire 2003:141).

A piece of historical evidence used was a petition that a much reduced Aboriginal population wrote in 1881, for a sufficient area of land to cultivate their stock (Alford 1999:42) The petition stated that “all the land within our tribal boundaries has been taken possession of by the government and white settlers; our hunting grounds are used for sheep pasturage... rendering our means of subsistence extremely precarious, and often reducing our wives and children to beggary.” Ironically, the judge construed this petition as proof that government and white settlers had dispossessed Yorta Yorta ancestors by 1880 and to justify his conclusions that by the turn of the 19th Century the Yorta Yorta were no longer in possession of their tribal lands (Reilly 2001:143).

The 1881 petition however, was a document pertaining to a Western idea of possession, not a document pertaining to traditional Indigenous law. Yorta Yorta people such as witness, Irene Thomas state, “We are living descendants of our ancestors. We’re still here. This is still our country we never gave our land away (Atkinson 2000:8.3).” Also the petition is crafted in high language and, there is no way of knowing how much Indigenous people contributed and how much it would have been assisted in its construction (Castan and Kee (2003: 86). There would have been profound limitations in the petitioners English and if they could have communicated in their own language, the petition may well have been very different. Unfortunately the law then and now accepts only Western constructions of documentation, to represent connections with land.

Indigenous connections to land may not fit into Western notions of property ownership but they are deeply rooted in the traditions of their ancestors. Paul Briggs states, “We look at the country and we see it as belonging to us and us belonging to it. My father and I and my family were constantly part of the forest and a part of Cummera.... Although we’ve been in a legal sense removed from it, we have never spiritually or emotionally been removed from it (Atkinson 2000:8.3).” Aboriginal land existed long before land was marked by boundaries. It weaves through an area, which “from time to time” may be found within boundaries and “from time to time” will not (HCA transcript
Stanner (1987: 6) writes that Aboriginal belief is about “being at one with nature,” not about dominating the environment or seeking to change or mark it. Even in areas, which are still inhabited, it takes a knowledgeable eye to detect their recent presence. Until one stumbles on a few old flint tools or something of the kind one may think the land has never been known to the touch of man (Stanner 1987:7).

Likewise Indigenous perceptions of sacredness are based on a holistic view of land and water (McGuire 2003: 141). On many of the field based excursions that I run in Yorta Yorta land one is able to explain the nature and context of sites that have been located within a fence and how this takes the site out of its original context and constructs an artificial perception of the site. A site as evidence of prior occupation cannot be isolated from its relationship with the surrounding geography and vegetation. In Western terms however, degrees of significance and or sacredness is only evident if one can box it into a designated space so that it can be classified and categorized in accordance with imported constructs. Olney (HCA transcript 2002: para. 162) stated, “there is no doubt that mounds, middens and scarred trees which provide evidence of the indigenous occupation and the use of land are of considerable importance and indeed many are protected under the heritage legislation, but there is no evidence to suggest that they were of any significance to the original inhabitants other than for utilitarian value, nor that any traditional law or custom required them to be preserved.” This rather contemptuous perception of connection to land places white notions of ownership above and superior to that of Indigenous cultural obligations for site protection in accordance with customary law principles as currently acknowledged and observed.

Native title cannot be defined in what a standard judicial court would ‘ordinarily’ involve (McGuire 2003: 137) and it is representation of tradition, Aboriginality, testimony and relations to land which play a major role in the outcome of the claim. As demonstrated, representations is not value free but are linked to a contestation of power-in this case between a dominant and white legal system and a marginalised Indigenous people. Clearly, the law continues to see Indigenous identity, tradition and relations to land through Western constructs, representing Indigenous conceptions, as inferior. Therefore Indigenous peoples are not free in thought or action but are confined by prescribed Western notions. When looked at in this way, the Native title process is revealed to keep Indigenous peoples and cultures in an ambivalent, if not oppressed place in the legal system. The Yorta Yorta case highlights the fact that in order to claim native title, Indigenous people need to confront a dominant Western legal culture, which is unable to adapt to a system of complex Indigenousness markedly different from its own. The perpetuation of representations inherited from its history of colonisation in the final analysis means that; western constructs combined with the practice of internal colonialism, and damaging media representations to pervert the course of justice in the Yorta Yorta case. Consequently the law failed to deliver long and overdue land justice.

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