Reflections on Yorta Yorta High Court Decision: Written after the High Court Decision, December, 2002.

Obviously the decision has been very disappointing for the Yorta Yorta and those Australians who believe in the principles of justice, equality and fairness before the law. It has created a sense of anger and outrage at the way that the law has been administered in our case—not to mention the long and grueling process that we have been put through.

The other downside is that the process has enriched the native title industry at the expense of the native titleholders. On reflection, I think this has severely if not irreparably damaged relations between Indigenous claimants, the native process and those beneficiaries who have opted to ride on the bandwagon of the native title industry in Australia. History will judge accordingly on those matters.

Given the impact of the decision I believe that anger and outrage is a healthy state of being which we need to resolve, and to then move on with the job ahead.

The other aspect of the decision, particularly for those who believe in equality and fairness before the law, is the damage that has been done to reconciliation, through the way the law is being administered in the post-Mabo context. These are the divisive outcomes of native title.

The positive outcome is that after nearly a decade of struggle, we now at least know where we stand with native title. I personally feel a great sense of freedom in that we are no longer gagged and oppressed by the way the native title process has been imposed. Our voices can no longer be curtailed and misrepresented by others. Nor can they be distorted or used by others including the mercenaries of the industry to try and undermine the integrity and the credibility of our people before the law.

We are no longer subject to those agents of the law, many of whom as demonstrated in our case, administer the law in accordance with their own imported anglocentric and often prejudiced value systems. Having dealt with the adversarial nature of the process, I am looking forward with much enthusiasm to telling it as it is, particularly through writing, teaching, and through educational and cultural awareness programs.

In light of our experience I believe it is time for our people to unleash themselves from the shackles that the native title process has imposed, and to speak direct and strong like our forebears in the past.

There are a number of avenues that can be pursued at the direction of the Yorta Yorta. The exposure of the way the law has been interpreted in our case needs to be raised within domestic and international forums. It must be remembered that during the process of the claim we always kept the legal and political agenda open. Indeed they were seen as parallel developments. Having exhausted domestic legal remedies, the matter automatically comes back onto the political and social agenda as a continuing unresolved issue of Indigenous land justice. It will continue to be rigorously pursued on these as well as other fronts, including the international arena, where strong and effective pathways have already been paved by Indigenous peoples throughout the world. The Human Rights Committees and the Working Group on Indigenous Peoples are good examples of existing International mechanisms where Indigenous voices can be articulated.
Given the loggerhead nature of the whole process, one is now in a position to say without fear of distortion that Native Title gives you ‘bugger all’. Indeed the words of many Indigenous voices that Mabo 'gave an inch but took a mile' and would deliver ‘not one iota’ of justice to Kooris in the south, are clearly vindicated.

Others will have differing views, but as we have seen so far- native or the original title has been reduced through the political and legal processes to a form of permissive occupancy, similar to that of the infamous reserve system of 19th century Australia.

Many would also agree that there must be a better way than litigation because at the end of the day there are no winners, and there is no way that we will forego something that we keep saying ‘always was and always will be Yorta Yorta land’.

I think its time for us as Yorta Yorta people to take control of the agenda. Obviously the land issue is still integral to the process of achieving autonomy and maintaining our unique identity. The survival of Yorta Yorta identity and connections with the ancestral lands will continue. As often asserted during the native title claim-'nothing will ever change that reality'. The Yorta Yorta land struggle will continue at the same time as the struggle for racial equality, and social, economic and cultural autonomy.

To highlight the remarkable resilience and pride of the Yorta Yorta in our land and in our identity, we are currently organising an Australia Day ‘Survival Weekend’ in the ancestral lands. It is being held in solidarity with our friends and supporters, and in recognition of the overwhelming endorsement of our survival that has flowed to us from Australia and oversees.

Our history teaches us that nothing has been gained without a struggle. The setbacks experienced in the past by our forebears will continue to be the driving force of the Yorta Yorta. They will inspire us into the future. The high court decision is but one of a number of setbacks that will etch its way into the memory bank of the Yorta Yorta Nation. No tide of history will ever wash away our struggle for land justice.

Will leave it at that and thanks for the opportunity to reflect on our struggle from a claimants view.

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