



NOTICES

PUBLICATIONS

Female circumcision – report

The Female Circumcision Community Education Project is a project of the Eritrean women's group, supported by the Ecumenical Migration Centre. The project developed from the Eritrean community, in recognition of the need to work towards the elimination of female circumcision.

The focus of the project is a series of information and discussion sessions for women from the Horn of Africa, focusing on why the practice exists, its effects, and what action affected women wish to take.

The project aims to inform the wider community and proponents of legislation of the complexities of legislation and the difficulties surrounding the immediate implementation of legislation.

A report has been prepared in response to the Family Law Council's discussion paper (1994). The report provides information about the women affected, a cultural and historical context for the practice, and an examination of the impact that the debate surrounding the legislation has had on the women involved.

For further information or a copy of the report, please contact Nicki Marshall at the Ecumenical Migration Centre.
Tel (03) 416 0044.

Australian Journal of Human Rights

The Human Rights Centre, based at the University of New South Wales, is establishing a new journal - *Australian Journal of Human Rights*. The AJHR will be the first academic journal of its kind in Australia to be exclusively devoted to the publication of articles, book reviews and commentary about human rights developments and issues in Australia and the Asia-Pacific region.

The Journal will adopt a multidisciplinary approach to human rights. This means it will deal not only with the legal aspects of human rights but with philosophical, historical, sociological, economic and political issues as they relate to human rights in the Asia-Pacific region.

For further information concerning subscriptions and contributions please contact:

The Editors
Australian Journal of Human Rights
Human Rights Centre
Faculty of Law
University of New South Wales
PO Box 1 Kensington 2033
Fax: (02) 313 7209;
Editors: Andrew Naylor (02) 231 1733
David Sonter (02) 353 4683

Incorporating?

The Council of Social Service NSW has just released three resources for any lawyer dealing with incorporation matters for non-profit organisations in NSW.

Written by solicitor Graham Wheeler, *Incorporation, An Explanation of the Associations Incorporation Act* (\$17.50) and *Legalities NSW, Guidelines for Running a Community Organisation* (\$15.00), provide accessible and up-to-date information on all aspects of incorporation and the legal issues facing non-profit groups in NSW.

NCOSS is also distributing a new disk called *Aid to Incorporation* (\$17.50) which complements the *Incorporation* publication. It includes precedents, *Associations Incorporation Act* (NSW), forms, constitutions for non-profit associations and supporting documentation for incorporation.

Contact: NCOSS tel (02) 211 2599 or order direct from NCOSS, 66 Albion St, Surry Hills, NSW 2010.

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acknowledgment of the situation the DSS had created for the client, may best explain the client's consent to resolution.

A final blow for the client came when the agreement giving effect to the resolution was drawn up. Unfortunately, the SSAT in its initial decision (although favourable to the client) failed to give actual reasons for its decision. This meant that the AAT mediator lacked the power to include the DSS acknowledgment of its fault, and a denial of client fault, in the AAT official decision, although this information can be found if one can access the client's file.

Issues

The process raises a number of issues with respect to the DSS and mediation.

First, a *Mediation Kit* was mentioned at the hearing prior to the mediation conference, but this did not materialise, so neither party was able to become familiar with the general aims and procedure of the mediation process. Clearly, if the mediation process is to address the issue of power imbalance mentioned above, such basic information should be readily available.

Additionally, the SSAT needs to be aware that a failure to provide *reasons* for its decisions could disadvantage parties who later participate in a mediation process at the AAT level. The provision of such reasons means that the AAT has the power to include them in an agreement reached at a mediation conference.

Interestingly, the mediator, in commenting on the mediation process occurring for the first time in Adelaide, also suggested that DSS offices outside the more populous States need further information and training in the area of mediation. Perhaps the Department could consider sending Adelaide staff interstate for familiarisation with this process.

Conclusion

Although mediation between the DSS and clients should not be discouraged as it can achieve quick, effective and cheap resolutions when properly managed, the other realities of

mediation should not be ignored. In the social security context mediation takes place between a very powerful bureaucracy and an individual with scarce resources. As a result there will be a risk that the DSS can utilise the mediation process to further wear down the client who has already progressed through a number of tiers of the appeal system. To work fairly for the client the mediation process must have built into it some minimum standards which are observed by the DSS uniformly around the nation.

Julie Margaret is currently undertaking the Graduate Certificate of Legal Practice in Adelaide, and is a volunteer at Legal Advocacy for Welfare Rights in Adelaide.

Thanks to Brian Simpson, Legal Studies Discipline, Flinders University, for assistance in preparation of this article.

References continued from p. 74

References

1. Reynolds, H., 'The *Mabo* Judgment in the Light of Imperial Land Policy', (1993) 16 *UNSW LJ* 27 at 30.
2. Reynolds, above, p.31.
3. Reynolds, above, pp.34-37.
4. Reynolds, above, p. 39.
5. See Blumm, M.C. and Malbon, J., 'Aboriginal Title, the Common Law and Federalism' in M.P. Ellinghaus, A.J. Bradbrook and A.J. Duggan (eds), *The Emergence of Australian Law*, Butterworths, 1989, at pp.39-41.
6. See Lord Sumner *Re Southern Rhodesia* [1919] AC 211 (PC) at 233. See also *Guerin v The Queen* [1984] 2 SCR 335 per Dickson J who referred to the constant problem arising 'from the fact that in describing what constitutes a unique interest in land the courts have almost inevitably found themselves applying a somewhat inappropriate terminology drawn from the general property law' (at 382).
7. See *Australian Capital Television Pty Ltd v Commonwealth* (No.2) (1992) 177 CLR 106 and *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1.
8. See *County of Oneida v Oneida Indian Nation* (1985) 470 US 266.

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DISABILITY DISCRIMINATION

The Federal Government has recently completed a Legal Aid Impact Statement on the *Disability Discrimination Act*. This revealed the need for specialist disability centres, operating in each State of Australia.

These Centres will provide legal advice relating to issues arising from the *Disability Discrimination Act*, and provide community legal education in the area. They are expected to open in May 1994. For further information, please contact the Federation of Community Legal Centres in your State.

VOLUNTEERS NEEDED

The St Kilda Legal Service needs volunteers on Thursday evenings.

Experience in criminal law and family law preferable. Also needed - a solicitor to take on a supervisory coordinating role.

If interested, please contact Suzy Fox or Anthea Teakle on tel (03) 534 0777.

BUSH HERITAGE

Governments can be lobbied to protect valuable pieces of Crown land but many areas in private hands are being increasingly threatened by inappropriate development. The Australian Bush Heritage Fund, a national non-profit organisation, was established to purchase privately owned land in areas of high conservation value.

The inspiration for Bush Heritage came from large land acquisition groups in the US and the UK although buying up land in Australia to preserve it is not new. Many groups have been raising funds to save special areas which may be threatened. Bush

Heritage has now established a national approach to this type of nature conservation.

A nationally registered company with its own tax deductibility status, it is governed by a Board of Directors and has a scientific advisory panel to oversee the identification and management of areas of high ecological significance. The organisation already has more than 2000 financial supporters.

The Fund has so far acquired 241 hectares in the Liffey Valley in Tasmania abutting the World Heritage area and 8.17 hectares of fan palm forest in the Palm Valley area of Queensland's Daintree rainforests.

To help, contact:

The Australian Bush Heritage Fund
102 Bathurst St
Hobart, 7000
tel 002 31 5475, fax 002 31 2491

property concept that best expresses the client's relationship to a material resource and achieves the client's other objectives, so the lawyer can draft the relevant document. To assist in this, one quarter of the volume of the text is devoted to a dispassionate analysis of the stamp duty, capital gains tax and fringe benefits tax implications. The writing is not gender specific, which is especially refreshing in property law texts. The author's style is very clear.

True to this paradigm, the text explores differing judicial views on points of principle, seeks to resolve them using traditional techniques and the likely implications of a contrary ('... but if I am wrong') finding. Broader policy considerations are not drawn upon to inform the choice when resolving an ambiguity or difference of view. Yet, even granted the classical paradigm, theoretical issues squarely raised in issues concerning the status of unregistered interests in real property and their vulnerability in priority conflicts are dealt with superficially (pp.17, 33-34 and 38). One could expect more, particularly considering the controversy in one of the author's jurisdictions of practice - Victoria.

This limited approach possibly reflects past approaches to property law in legal education, in which the historical fiction has been perpetuated of a Golden Age of pure English general law before colonial non-lawyer administrators spoiled the

real art with the Torrens system. And when these non-lawyers used words like 'conclusive evidence of title' they did not really mean it because they did not know what they meant because they were not lawyers. As this is the general lore about registered title it is probably not fair to criticise the author of this work for remaining within it by writing as though the land title registration system has only marginal relevance to land transactions. In any case, one suspects that the audience for whom the text is written might well be looking for a form of property which can happily exist privately, *off* public registers, in situations where there is sufficient control over other potential players by other means, such as credit lines, and which fulfils other criteria as well. If so, the author would have appeared naive if he had laboured the point that the land title registration system is the legal framework for private titles held of the Crown in Australia and earnestly sounded the logical alarms about the potential vulnerability within that framework of unregistered interests in land not protected by caveat.

Stepping yet further into the world of the classical property law paradigm, one can isolate more microcosmic retreats by the author from theoretical issues of property law, but no doubt the courts will continue to bestow upon options the imprimatur of *property* regardless of which

theoretical explanation is adopted. Within the author's paradigm, such criticism could well be explained away as *academic* - and that really is the point.

The author has not written a monograph - it is no treatise. It has a narrow view of its subject matter and does not examine theoretical problems even squarely within its field. It assumes the commercial, institutional and jurisprudential environment of its subject matter. My criticisms do not, however, reduce the text to a *mere* book, as the Foreword of Mr N.H.M. Forsyth, QC, puts it. It is a practical, well written and logically organised book. This book will please the audience which it addresses while that audience prepares to perform specific practical and strategic tasks. It was a good idea to write a book dealing with options at a general level of legal principle. This book might also be informative background reading for readers who contribute to the development of socially responsible land title management policy, and readers interested in options as intriguing 'wealth phenomena' from a legal view. However, through the narrowness of its paradigm and the absence of any critical perspective on its subject matter, the book gives no lead to alternative future developments in the field.

MURRAY RAFF

Murray Raff teaches property law at the University of Melbourne.

NOTICES

CONFERENCES Has Adoption a Future?

Call for abstracts and registration of interest

The Post-Adoption Resource Centre
Date: 29-31 August 1994
Venue: Sydney
Contact:
The Conference Secretary
PO Box 171
Paddington NSW 2021
tel (02) 361 0033 fax (02) 361 5427

Law and Literature Association of Australia Annual Conference

Call for papers

Date: 30 September - 2 October 1994
Venue: QUT, Brisbane
Contact:
Christine Higgins
School of Humanities
QUT Carseldine
PO Box 284, Zillmere Qld 4034

Victorian Federation of Community Legal Centres

Annual Conference

Date: 20-22 May 1994

The conference will look at issues of law reform and training in the areas of migration law, family law and legal aid applications. Those interested in community legal issues are welcome to attend. For information please contact Maria or Gareth on tel (03) 419 2752.

The Native Title Legislation Conference

The Centre of Commercial and Resources Law of the University of Western Australia and Murdoch University.

Date: 16-17 June 1994

Venue: Perth

The Conference will examine the *Native Title Act 1993* of the Commonwealth, the *Land (Titles and Traditional Usage) Act 1993* of Western Australia, and the *Native Title (Queensland) Act 1993*.

The conference will bring together leading experts in the law relating to native title and the native title legislation. Sir Ronald Wilson will open the conference and speakers include Judge French, the President of the Native Title Tribunal, Professor Garth Nettheim, Professor Richard Bartlett, Graeme Neate, Chair of the Queensland Tribunal and Dr Carmen Lawrence.

More details can be obtained from the Centre at the Law School, University of Western Australia, Nedlands WA 6009, fax (09) 380 1045.

National Community Legal Centres Conference

Date: 30 August - 2 September 1994

Venue: Perth

Contact:

NSW CLC Secretariat
1/245 Chalmers St
Redfern NSW 2016
tel (02) 698 2401