

NGAARRA FORUM

Over 100 delegates from around Australia attended a two day Ngaarra legal forum at Gulkula on 23- 24 August 2001 as part of the 3rd Annual Garma Festival of Traditional Culture.

Delegates were welcomed by Chief Minister elect Clare Martin and Gumatj leader and Northern Land Council Chair Galarrwuy Yunupingu who jointly signed an agreement to repeal the NT's current mandatory sentencing laws as a sign of mutual goodwill between the new Labor Government and Aboriginal people of the Territory.

Participants also heard addresses from Banambi Wunungmurra (Chair, Miwatj Aboriginal Legal Service Council), the Hon. Chief Justice M E J Black AC (Federal Court of Australia), Mr Rex Wild QC (Director of Public Prosecutions, NT) and Prof Nancy Williams (University of Queensland). Discussions gravitated toward models for recognising the coexistence and parallel jurisdiction of Crown and Indigenous Australian systems of law.

In the first session of the forum Chris Cunneen from the Institute of Criminology, Sydney, gave an overview of sentencing and Aboriginal imprisonment rates from a national and

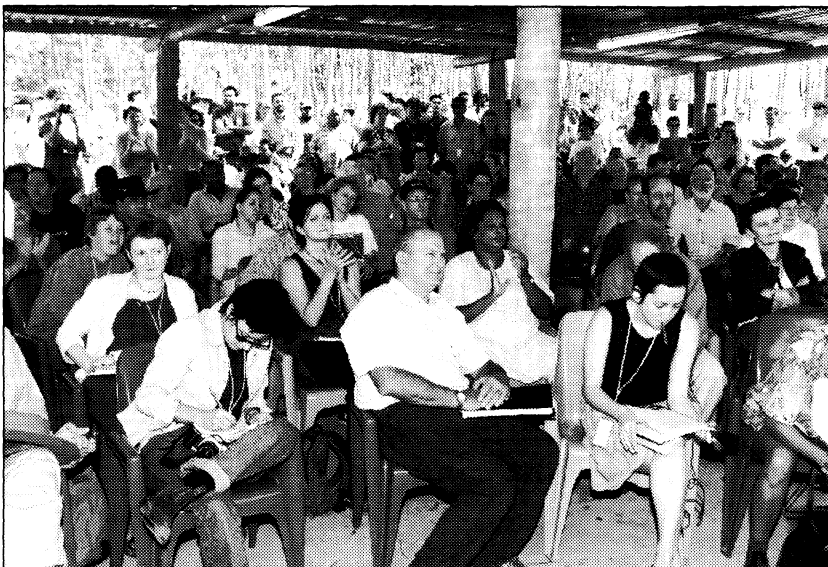


Before her official swearing in as Chief Minister Clare Martin attended the Ngaarra Forum as Chief Minister Elect to welcome delegates

Northern Territory perspective. Veronica McClintic, Director of the North Australian Aboriginal Legal Aid Service (NAALAS), discussed the impact of the recently passed Public Order and Anti-Social Behaviour Act on Aboriginal people in the Northern Territory. David Woodroffe (NAALAS) outlined the situation of juveniles in Arnhem Land and the criminal justice system, while John Hughes (NAALAS) provided an insight into some of the community housing issues faced by Aboriginal people.

One of the highlights of the forum was the presentations from two Indigenous Canadian speakers, Paul Chartrand (Aboriginal Justice Implementation Commission), and James Guest

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Over 100 delegates attended the Ngaarra forum which was a feature of the 3rd Annual Garma Festival of Traditional Culture

The Forum noted that four key guiding principles were necessary "to achieve justice and fairness for all, and an end to the dominance and repression of Aboriginal Law by the Australian Legal System":

Principle 1 Justice and fairness in the Australian legal system depends on the protection of full judicial discretion, the separation of powers, and other long valued mechanisms of ensuring justice, from the vagaries of the political system. Resort to mandatory sentencing and zero tolerance policing are political policies of the day that undermine the principles of law and should be resisted by legislatures in the interests of principles of justice and compliance with human rights standards.

Principle 2 Where legal pluralism enables justice and fairness then the recognition of customary law should be legislated to ensure that all Australians obtain the benefit of a combined system of laws that works to the benefit of Indigenous and non-Indigenous Australians alike.

Principle 3 A fundamental standard in international law is the right of all peoples to self-determination whereby they make their own decisions as to political, cultural, economic, social and other matters. Aboriginal communities should be empowered to apply the principle of self-determination at all stages of the criminal justice system and juvenile justice system, and in all other matters of law so that peace, order and good government can operate in all communities.

Principle 4 Flexibility and imaginative responses in the administration of law would better serve the community than adherence to traditional methods applied by the judiciary, the police and the correctional system. Reform and development of our system of law should aim to reduce contact of offenders with the criminal justice system and to reduce recidivism among offenders. The Royal Commission into Aboriginal Deaths in Custody recommended imprisonment as a last resort. Initiatives in the legal system that aim to divert offenders from custody must be encouraged and established widely.

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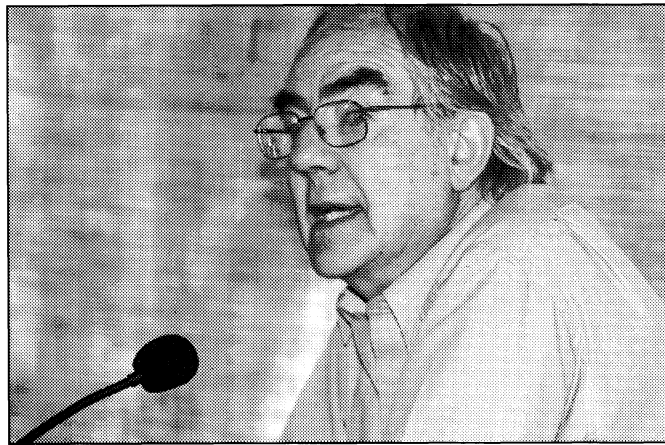
(University of Alberta), who spoke on the Aboriginal Justice Implementation Commission, and restorative justice respectively. This session also included a talk on Victim-Offending Conferencing by Declan Roche of the Australian National University and impromptu presentations by Penna Gaeia of the Palm Island Community Justice Group, and Rev. Djinini Gondarra, a Yolngu elder who discussed the meaning of "Ngaarra".

After workshop discussions, participants had the opportunity to ask questions to members of a panel that included John Toohey, Aden Ridgeway, Larissa Behrendt, Bob McMullan, Mayatili Marika, Djinini Gondarra and Paul Chartrand. During this session a conference statement was developed, and was later put to the session chair, Galarrwuy Yunupingu, who read out the four principles in the statement. These four principles were endorsed by conference delegates and are reprinted on page 9 in this edition of *Balance*.

Another outcome of the panel discussion session was support for a working party to the Shadow Minister for ATSI Affairs, Bob McMullan. This working party would look at ways in which Australian and Indigenous law could work together, responding in different circumstances in different parts of the country.

The Forum also called on the NT Government to repeal the Public Order and Anti-Social Conduct Act, and on the WA Government to repeal its mandatory sentencing laws. The Forum resolved that, in the interests of observing the highest standards of justice and human rights expected by the community, full judicial discretion should be restored in both the Northern Territory and Western Australian jurisdictions, and should be the fundamental principle in all other Australian jurisdictions.

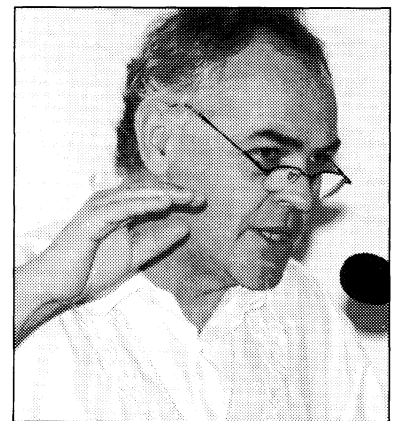
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The Hon Chief Justice Michael Black AC, Federal Court of Australia



Veronica McClintic, Director, NAALAS



Chris Cuneen, Director of the Institute of Criminology, NSW



Dr Mick Dodson, AIATSIS



John Hughes, Solicitor, NAALAS