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# Book Review

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*Indigenous People and the Law in Australia*  
by Christopher Cunneen and Terry Libesman  
Butterworths' Legal Studies Series Sydney 1995,  
240 pp, index, bibliography, softcover.

Cunneen and Libesman have written an extremely useful book on Aboriginal and Torres Strait Islander legal issues. Though mainly aimed at legal studies secondary school students this text could also provide a comprehensive introduction to this area of the law for tertiary students. Because of the broad coverage of the major issues we selected it as the required text for Aboriginal and Islander Legal Issues an undergraduate law unit at QUT.

A work which ranges over so many issues also needs a unifying theme. As one of their major themes the authors have chosen the sad history of the impact of Anglo-Australian law which has dispossessed our indigenous peoples of their land, their freedom, their families and their dignity. In the first chapter the authors explain that the student of law needs to study history because without knowledge of our past we cannot understand the present. As the North American philosopher George Santayana has written: "Those who cannot remember the past are bound to repeat it".

This theme, developed through an historical perspective of government and church policy, will open the eyes of many students who have never been exposed to the devastating effect that Anglo-Australian law has had on our first peoples.

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The first part of the book examines the effect of British contact on the Aboriginal peoples of this country: extracts from colonial court cases, government documents and newspapers illustrate the systematic genocide of the inhabitants. The text examines the changing objectives behind the policies of protection, assimilation, and multi-culturalism. These chapters raise the important question of whether Aboriginal people were British subjects.

To my mind the most moving chapter in the book is the case study on the removal of Aboriginal children from their families. Working in the institutions of the NSW Child Welfare Department in the mid-sixties, I saw the effect of the policies of separation of children from their families, and of the incarceration of teenage girls who were guilty of the “crime” of being “exposed to moral danger”. I remember interviewing an Aboriginal girl who spoke no English, trying to find out where she had come from and in what circumstances she had been condemned to serve 3 months with the hardened young prostitutes of Kings Cross.

The most telling statistic put up by Cunneen and Libesman (at p 45) is that of the 99 deaths in custody investigated by the Royal Commission, 43 of the deceased had been separated from their families in childhood by the state or the church. The separation was not because the parents had offended a law which protected the welfare of children, but because it was sincerely believed by government and church that the children’s removal from their home would give them a better chance in life. What is particularly devastating is that psychological and sociological evidence was available at that time to prove that forced removal of children from their homes resulted in depressed, confused and disoriented adults. That the policy was applied to Aboriginal children in the face of that knowledge illustrates that government and church believed Aboriginal people could be treated like stray dogs in need of a home.

However the text does not dwell on past injustices. From Chapter 9 onwards the authors deal with current government attempts to aid indigenous people to reassert their land ownership and self-determination. Chapters 9 to 13 provide a clear overview of Aboriginal land ownership, the *Mabo* decision and the native title and land rights legislation. Chapter 14 addresses areas of the law such as family law, housing and employment and discusses unacceptable practices in consumerism and the role of the media in perpetuating racism. The issue of self-determination is critically examined in the remaining chapters 15 to 17. In these chapters the viewpoints of a number of indigenous people were canvassed on what self-determination means to them and where their future should lie. The place and role of national and international bodies as enforcers of legal rights are comprehensively addressed.

In a text such as this authors are constrained by keeping the text short enough to be affordable by students; therefore it is impossible to cover the whole range of relevant aspects of the law. I would have liked to have seen a discussion of some of the issues presently before the public: the protection of intellectual property and religious beliefs — the Hindmarsh Inquiry has highlighted the ignorance in the

general community about the nature of sacred secret knowledge. The other area in which the issues were not treated in any great depth (apart from the section on *Mabo*), was Torres Strait Islander people and the law: the focus of the work is very much on Aboriginal issues. The text also tends to accept the view that all Aboriginal people used their land in the same way. This model exists because the sedentary people who lived around the coastal fringe of the continent and Tasmania were dispossessed of their land. The peoples who survived with their culture intact tended to live in the desert regions — it is those people who have been extensively studied by anthropologists. Anthropologists' findings have shaped the "nomadic" model of Aboriginal traditional peoples. Nevertheless there is a wealth of information in this book which will lead the student and teacher to further research.

To achieve an educational impact a text of this nature needs to be logically set out and clearly written. This book amply fulfils this criteria: it uses graphs, headings, graphics and photographs to illustrate the text. The cover by the indigenous artist Mundara Koorang is striking and symbolic. The authors are to be commended for their eclectic approach to the text — not only extracts from cases and legislation but contemporary documents, newspapers and interviews bring home the application of the law to indigenous peoples.

The layout is especially useful for teaching purposes with the text interlaced with discussion questions and activities. The book contains a comprehensive bibliography for further research and names and addresses of Aboriginal organisations who could provide further information.

This is an excellent textbook, informative and thought-provoking. It deserves a wider market amongst anyone concerned with contemporary social issues in this country.