

BRIEF INDEX OF MATERIALS RELATING TO NATIVE TITLE COMPENSATION RESEARCH

CULTURAL LOSS, EMOTIONS AND PERSONHOOD

Burbank, V. K. (1994). *Fighting women : anger and aggression in Aboriginal Australia*. Berkeley, University of California Press.

- Experience and expression of emotion
- Cultural construction of emotion
- Supernatural aggression

Burbank, V. K. (2017). *Empathy, Psychic Unity, Anger, and Shame. People and Change in Indigenous Australia*. F. M. Diane Austin-Broos, Paul Burke, & Yasmine Musharbash, University of Hawai'i Press: 165-175.

- Personhood
- Empathy
- Shame

Glaskin, K. (2012). "Anatomies of Relatedness: Considering Personhood in Aboriginal Australia." *American anthropologist* 114(2): 297-308.

- Embodied consequences of emotion and stress
- Identity in relation to country
- Personhood and self

Kwok, N. (2012). "Shame and the Embodiment of Boundaries." *Oceania* 82(1): 28-44.

- Social closure
- Emotion and culture
- Sense of shame and its impacts

Myers, F. R. (1986). *Pintupi country, Pintupi self : sentiment, place and politics among western desert aborigines*. Canberra, Australian Institute of Aboriginal Studies.

- Spatial relationships
- Self and place
- Connection with landscapes

Palmer, K. (2018). *Compensation. Australian Native Title Anthropology: Strategic Practice, The Law and the State*, ANU Press: 227-238.

- Anthropologist's job in explaining impacts on cultural duties
- Focus on entirety of "country"
- Researching relationships with country
- Linguistics of emotions and feelings

Pannell, S. (2019). *What Do William James and Franz Boas Have to do with Compensation Claims?: An Exploration of Emotion and Culture in Indigenous Compensation Claim Research*. National Native Title Council Conference.

- Emotions of loss
- Words and expressions
- Impacts on individuals as opposed to society

- Cultural value and significance ascribed to land

Pannell, S. (2018). "Framing the Loss of Solace: Issues and Challenges in Researching Indigenous Compensation Claims." *Anthropological Forum* 28(3): 255-274.

- Explores themes of powerlessness and injustice
- Term 'solastalgia' used to look at how people live with a sense of loss on country
- Loss is felt differently by people of different ages

ROLE OF THE ANTHROPOLOGIST: RESEARCHER AND EXPERT

McGrath, P. (2017). "Native Title Anthropology after the Timber Creek Decision." *Land, Rights, Laws: Issues of Native Title* 6(5): 1-5.

- Notes the role of anthropologists in interpretation of impacts and connections
- Impacts on reputations through the failure to protect country
- Should anthropologies become involved in the distribution of moneys?

Blowes, R 2017, 'Getting to native title – roles and important distinctions for anthropologists and advocates', *Native Title News*, vol. 12, no. 8.

- Looks at the roles of researcher and advocate
- Researcher to be independent and factual
- Importance of experts being able to convey the broad nature of connection to country pg 476

Justice Rangiah, 'Expert Anthropological Evidence- A Judges Perspective' (Speech, Future of Native Title Anthropology Conference, 4 February 2016)

- Importance of writing reports to specific audience with purpose in mind
- Communication between lawyer and anthropologist
- Agendas of all involved

VALUE AND ECONOMICS

Brohier, J. (2016). *How should loss of Native Title Interests be Compensated?*, University of Adelaide.

- International examples
- Models
- Non-economic principles

Burke, P 2002, 'How can judges calculate Native Title compensation?' [online], Discussion paper, Australian Institute for Aboriginal and Torres Strait Islander Studies, Canberra, viewed 17 September,

https://aiatsis.gov.au/sites/default/files/products/discussion_paper_research_outputs/how-can-judges-calculate-native-title-compensation.pdf

- Group or individual
- Future generations
- Defamation, trespass and damages

Hughston, V. and T. Jowett (2018). "Native title compensation claims." *Bar news (Sydney, N.S.W.)*(Autumn 2018): 52-55.

- Looks at the economic and non-economic loss in T/C
- The three considerations significant to non-economic loss
- Value of exclusive possession

Nicholls, H. and E. Nolan (2019). "Calculating cultural loss and compensation in native title: 'Northern Territory v Griffiths' (2019) 364 ALR 208." Adelaide law review 40(3): 879-889.

- Separate assessment of heads of compensation
- Monetary compensation
- Quantification of intangible value

Murray, I. (2019). Co-designing benefits management structures. Crawley, W.A, Centre for Mining, Energy and Natural Resources Law, University of Western Australia.

- Proposes alternative benefit management structures
- Codesign of structures
- Decision making

FACT SHEETS

Fletcher, G 2009, 'Compensation', James Cook University Native Title Law and Policy LA4035. National Native Title Tribunal

<http://www.nntt.gov.au/Information%20Publications/Compensation%20paper%20Graham%20Fletcher.pdf>

Kimberley Land Council 2020, 'Native Title Compensation', viewed 19 September 2020,

<https://www.klc.org.au/native-title-compensation>

National Native Title Council n.d. 'Compensation Fact Sheet', viewed 20 September 2020,

<http://ymac.org.au/wp-content/uploads/2019/06/National-Native-Title-Council-Compensation-Fact-Sheet.pdf>

Yamatji Marlpa Aboriginal Corporation 2019, 'Native Title Compensation – what you need to know', viewed 18 September 2020, <https://ymac.org.au/native-title-compensation-what-you-need-to-know/>

TIMBER CREEK JUDGEMENTS

Original Judgement of Federal Court of Australia (12 June 2014):

Griffiths v Northern Territory of Australia [2014] FCA 265

Decision of the Appeal to the Full Federal Court of Australia (24 August 2016):Griffiths v Northern Territory (No.3) [2016] FCA 900

Northern Territory v Mr A. Griffiths (deceased) and Lorraine Jones on behalf of the Ngaliwurru and Nungali Peoples [2019] HCA 7

KEY SECTIONS OF THE NTA RELATING TO COMPENSATION

Section 51&53 Criteria for determining compensation