Since the passage of the *Native Title Act 1993 (Cth)* and related law reform, legal rights and interests in a significant and growing estate have been transferred to Aboriginal and Torres Strait Islander groups around Australia. As Jon Altman and Francis Markham explain in their contribution to this edited collection, this estate now comprises more than thirty per cent of the continent, and includes areas with significant mineral deposits as well as other economic development opportunities. Yet frustrations with the native title system remain so strongly felt that the subtitle of this collection – native title as ‘a vehicle for change and empowerment’ – is presented here in the form of a question. Offering diverse perspectives from legal practitioners and academics, this collection asks why such change and empowerment has proved so difficult to achieve, and what might be done to improve the system.

Part One addresses the legal problematics of native title, focusing on those aspects of the legislation and jurisprudence with a bearing on economic development, with contributors lamenting the ‘legal tightfistedness and scholasticism’ of the system (Sean Brennan), the evidentiary burden it creates for claimant groups, and issues relating to the over-specification of rights (Lisa Strelein). Multiple contributors also lament discriminatory extinguishment rules, with the appellate advocate Bret Walker describing recent jurisprudence relating to extinguishment as ‘a breathtaking confession of failure intellectually and … morally of the whole system’.

For these legal scholars, ‘an apparent turn towards greater moderation’ in the jurisprudence represented by Justice Paul Finn’s decision in the Akiba Torres Strait Regional Sea Claim case is cautiously welcomed, with Sean Brennan seeing this decision as helping to ‘legitimate the modernity of native title and normalise the notion of its commercial use’. However, as Justice Paul Finn observes in his contribution here, a ‘distressing’ characteristic of litigation including Akiba is ‘its tendency to Balkanise claim groups’, an outcome ‘manifest in the propensity for microscopic examination of laws and customs so as to discern and accentuate difference’. In light of such ‘Balkanisation’, efforts to commercially exploit rights and interests in the aftermath of successful determinations like Akiba will remain challenging for traditional owner groups.

Part Two departs from legal argument to consider the social impacts of native title, including the matter of disputes. The anthropologist David Trigger’s description of the internal politics of the Waanyi native title claim offers a vivid account of what conflict within traditional owner groups means, and its ‘debilitating’ costs for protagonists. In the case he considers, questions of claim group membership, identity, and belonging to country were eventually considered by the Federal Court after a long dispute involving Waanyi people at Doomadgee and extended families of Aboriginal people living outside the Gulf region. Such disputes illustrate the role that local indigenous politics plays in securing positive change and empowerment from the system, with the ‘perception of financial and related benefits from claim outcomes’ apparently playing a significant role in the Waanyi case.

Other chapters dealing with indigenous governance also address issues relating to the distribution of benefits. Marcia Langton’s chapter on indigenous corporations is particularly valuable, addressing the complex compliance and administrative burdens imposed by the native title system as well as challenges relating to ‘the internal complexities of the Aboriginal world’. While indigenous incorporation may be ‘a means of empowerment’, as Tim Rowe argues here, it clearly presents issues for indigenous people seeking to manage and make use of their rights in modern Australian society, as ‘the localism of Aboriginal solidarities’ clashes with the need for functional politics. It may be, as Langton argues, that indigenous people need ‘to change their mindset about the highly localised world that they prefer, and make a decision to escalate their administrative organisational capacity to a much higher level than they are accustomed to’. Indeed, the more successful examples of change and empowerment appear to be connected with such ‘higher level’ organisational structures, such as the ‘community development’ approaches undertaken by the Central Land Council around Alice Springs, championed here by Danielle Campbell and Janet Hunt. However, disputes relating to the distribution of benefits remain a problem in diverse post-determination settings around Australia, and constructs like ‘the community’ are perhaps more aspirational than some contributors represent.

A strength of this book is its frank account of the problems of the native title system. Non-specialists may find the chapters dealing with the legal dynamics of the system overburdened with jargon and challenging to read, which is a shame, as debates about native title need to move beyond the hermetic logic of the law. As Langton states, ‘we need to inject the native title space with new ideas’. Some of these ideas are debated in this collection, like the matter of land tenure reform to build indigenous capital through the alienation and collateralisation of rights in land, and one contributor presciently revives talk of a treaty. More new ideas are urgently needed, embracing contributions from disciplines like economics, which is strangely unrepresented here. Further consideration of what ‘change’ and ‘empowerment’ means for indigenous people in different settings is also needed, particularly in regional and remote areas where access to the mainstream market or ‘real’ economy is so difficult. If native title is as much about the future as the past, as this book suggests, then development objectives which deal meaningfully with cultural difference and diverse aspirations will need to be presented alongside critiques of the system.

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