Native Title from Mabo to Akiba: A Vehicle for Change and Empowerment? edited by Sean Brennan, Megan Davis, Brendan Edgeworth and Leon Terrill

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To cite this article: Paul Burke (2017) Native Title from Mabo to Akiba: A Vehicle for Change and Empowerment? edited by Sean Brennan, Megan Davis, Brendan Edgeworth and Leon Terrill, Anthropological Forum, 27:2, 155-157, DOI: 10.1080/00664677.2016.1265270

To link to this article: http://dx.doi.org/10.1080/00664677.2016.1265270

Published online: 22 Jan 2017.
Native Title from Mabo to Akiba: A Vehicle for Change and Empowerment? edited by Sean Brennan, Megan Davis, Brendan Edgeworth and Leon Terrill, Annandale, The Federation Press, 2015, xii + 273 pp., Table of cases, table of statutes, figures, index (paperback), ISBN: 978-1-86287-998-0

This diverse collection of papers promises a critical update on native title concentrating initially on the development of the legal doctrine (Part 1) and then the broader social context via the theme of empowerment (Part 2). I evaluate the book as an anthropologist seeking greater understanding of the development of the legal doctrine of native title and furthering an interest in the social effects of native title.

The three chapters on the Akiba decision (the High Court decision in the Torres Strait native title sea claim) are informative and include one chapter by the trial judge, Justice Paul Finn. This is highly unusual but the judge is very circumspect in characterising his comments as questions and issues for discussion. Legal academic Sean Brennan's analysis of the High Court case is much more useful for anthropologists wishing to keep abreast of legal developments in native title law. Brennan sees the High Court decision in Akiba in 2013 as a turn towards ‘moderation and realism’ in its 20-year development of the legal doctrine of native title that saw a strict approach to the proof of traditional continuity (Yorta Yorta), the adoption of a ‘bundle of rights’ approach to the nature of the title (Ward) and its easy vulnerability to extinguishment. In Akiba, on the other hand, the High Court endorsed the trial judge’s broad determination of the right to take resources for any purpose, including for trading or commercial purposes. Brennan sees in this a threefold significance: the recognition of the commercial character of native title, drawing a line against the over-specification of rights and the moderation of extinguishment law so that the extensive legal regulation of commercial fishing did not extinguish the native title right. Strelein’s contribution covers similar ground.

The next three contributions appear to be aimed at native title legal aficionados. David Yarrow reflects on the legal policy-making in the original Mabo decision that native title rights recognised by the common law are inalienable; Brendan Edgeworth investigates the effect of the Mabo decision on Australian property law; and Jonathan Hunyor examines the relationship between native title and Australian understandings of race discrimination. For the non-specialist, it is difficult to evaluate some of the arguments: do the various critiques and arguments advanced represent current legal doctrine, plausible legal arguments or hopelessly romantic, if ingenious, wishful thinking?

The second part of the book opens with Jon Altman and Francis Markham’s odd mixture of macro analyses of the nature and extent of Indigenous land holdings and strident anti-neoliberal rabble rousing. There has obviously been much painstaking work involved in developing the useful maps of the current and historic Indigenous estate and the chapter does provide an overview of Altman’s recent policy preoccupations (Indigenous rangers and the management of the Indigenous estate as an alternative to the restrictive, neoliberal inspired measures of The Intervention).

Andrew Chalk’s years of experience as a lawyer working with the New South Wales Aboriginal Land Rights Act enables him to present a masterly insider’s guide to the distinctive legal structures of that Act and the various checks and balances introduced over 30 years
of responding to multiple chronic problems and crises. It is predominantly focused on legal structures with the on-the-ground realities only faintly glimpsed. Andrew Chalk and Sean Brennan’s argument, that legislators and lawyers advising indigenous people could learn from the hard-won checks and balances in the New South Wales system, is well made, especially considering the minimalist regulations for native title prescribed bodies corporate and the absence of a funding strategy for them. Ciaran O’Faircheallaigh’s contribution reverts back to macro analyses on the well-worn theme of how much better things would be in Australia for Indigenous people if we were more like Canada and there was recognition of an inherent Indigenous right to self-government. Marcia Langton’s contribution on native title prescribed bodies corporate is much more grounded in the realities of running Indigenous organisations in a complex legal and intercultural space that is characterised by a tendency towards wasteful fragmentation and the overburdening and vulnerability of small, voluntary Indigenous corporations. She addresses the unattractive truth about empowerment in contemporary circumstances – a sort of grey empowerment – that empowerment is dependent upon having the money and expertise to properly run corporations. A counterpoint to the over-generalised critique represented by the Altman and Markham’s contribution is Tim Rowse’s clear and erudite chapter on ‘Indigenous Incorporation as a Means to Empowerment’. It is a patient untangling of the excesses of one contemporary trend in academic critique inspired by Patrick Wolfe structuralist interpretation of settler-Indigenous history as a logic of elimination. It also addresses the equally dubious attempts to articulate a single Indigenous political ontology. His plea is to carefully historicise Indigenous political ideas rather than essentialise Indigeneity. David Trigger’s contribution is a rare detailed description of a dispute over membership of a native title claim group. The circumstances and arguments of the excluded member of the claim group, particularly the uncertain and attenuated connection to early ancestors, resonate with my experience of Queensland native title practice. The chapter could be seen as a critique of the naive view that intra-Indigenous disputes are evidence of an underlying cultural logic and will always be best solved by Indigenous people themselves.

Leon Terrill’s contribution about Hernando De Soto’s views about the empowerment of occupants of urban shantytowns by granting them official title to land seems a curiously misdirected approach to evaluating the empowerment potential of native title. He so convincingly sets out the critique of De Soto’s context bound (the shantytowns of Peru) and ill thought out approach I did wonder why he bothered to use De Soto as his foil for evaluating native title. Danielle Campbell and Janet Hunt’s chapter describes the Central Land Council’s efforts to use some of the mining royalties flowing into its area for community development purposes. Their focus on questions of process and the difficulties of the institutional setting of the programme is informative but only up to a point. Glenn Kelly and Stuart Bradfield’s chapter reports briefly on negotiating a comprehensive settlement in the Noongar native title claims in south-east Western Australia. They are respectively the CEO of the South West Aboriginal Land and Sea Council and the Negotiations Manager of the Council. In effect, it sets out the positive possibilities of such a comprehensive settlement: recognition, a land base, economic participation and structures of self-determination.

In conclusion, this is rather a mixed bag for anthropologists. The legal side tends to be overly speculative and a significant part of, the evaluation of empowerment is a case of the usual suspects saying familiar things. The chapters by Brennan, Langton, Rowse and Trigger are the exceptions that make it a worthwhile read, as do references throughout to some of the interesting but obscure literature. Oddly, no contributors mentioned Mantzaris

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https://doi.org/10.1080/00664677.2016.1265270


Recently, during a visit to Papua New Guinea, I met a young man who was convinced that ‘blockchain technology’ would revolutionise the relationship between citizens, government and private sector there. Having studied scams in Papua New Guinea, I was sceptical of these claims and particularly some of the proposed applications. But I was grateful that I had read Bill Maurer’s *How Would You Like to Pay?* At least I could follow what this Papua New Guinean would-be entrepreneur was saying without being too mystified by the terminology.

Maurer’s latest book is a brief (163 pages in a small format) and highly accessible introduction to the complex topic of payment systems. Written in an engagingly informal style accompanied by eye-catching photographs, it is an excellent teaching resource that will surely become a standard feature of reading lists in undergraduate courses in economic anthropology and the anthropology of finance and money. The book explains a remarkable range of contemporary phenomena, including Bitcoin, and gives a brief history of credit cards.

At heart the book is an anthropological exploration of money and many of the questions Maurer asks are familiar. However, the focus on payments systems broadens out the discussion of money so that the supporting infrastructures and social ecologies of monetary exchange become visible. The first chapter, ‘Disruptions in Money’, begins with a discussion of mobile phone payment platforms such as M-Pesa, a banking system which has been very successful in Kenya, particularly among those too poor to be credit worthy in the eyes of formal financial institutions. Alongside M-Pesa, Maurer places ‘Square’, a mobile phone payment application launched in 2012 with considerable hype by the Starbucks coffee chain, only to be quietly forgotten two years later. These examples are merely two of many other attempts at linking smartphones and credit cards, and Maurer successfully uses the narratives of failure of now-forgotten schemes like Square as a warning against the more excited claims of revolutionary innovation in payment systems. The contrast between M-Pesa and Square introduces the classic questions that social scientists have been asking of money for more than a century, as well as some new questions raised by digital technologies of the twenty-first century.

Maurer rejects popular theories of the evolutionary development of money from barter to primitive monies and then coins, banknotes and electronic transactions and he is careful to show the persistence of older forms of money (coins, banknotes and credit cards can all be found in our wallets and purses). This ethnographic sensibility runs through the whole book and becomes a powerful mode of argument where, step by step, Maurer’s commonplace