

1. Lavery, Daniel --- "Native Title as Property: Yunupingu v Commonwealth" [2023] JCULawRw 8; (2023) 29 James Cook University Law Review 125

In May 2023, a Full Federal Court in *Yunupingu v Commonwealth* decided unanimously that native title is 'property' within the terms of [s 51\(xxxi\)](#) of the *Constitution*. In its defence, the Commonwealth argued the native title recognised at common law in the landmark 1992 *Mabo [No 2]* decision was susceptible to an exercise of the radical title of the Crown without any duty to pay compensation. Special leave to appeal was sought by the Commonwealth and has been granted. This novel constitutional issue **will now be conclusively determined by the High Court of Australia**. Although a simple yes or no is all that is required to answer whether native title is property within [s 51\(xxxi\)](#), at another level it calls into question **the still-unsettled terms of the legal relationship between the Crown and the Indigenous peoples of Australia.**

2. Babie, Paul; Nikias, Kyriaco --- "The Renewal of the Old: Lionel Murphy's Progressive-Relational Conception of Property" [2019] UNSWLAWJL 29; (2019) 42(3) UNSW Law Journal 790

As we approach Justice Lionel Murphy's 100th birthday on 30 August 2022, this article explores and renews a significant aspect in the jurisprudence of this truly radical judge: **the social relations or progressive view of property**. Justice Murphy both identified and judicially expounded this view well before the American social relations or progressive schools. And rather than merely identifying it as some intellectual museum piece, the article also builds on it. The article contains five parts. Part I contextualises the jurisprudential debates surrounding property. Part II recounts Justice Murphy's judicial radicalism. **Part III explores the elements of Murphy's progressive-relational view of property.** Part IV applies the elements of Murphy's progressive-relational property to the High Court's recent native title decision in *Northern Territory v Griffiths* (Ngaliwurru and Nungali Peoples). Part V offers some concluding reflections on the bright future for property found in Murphy's conception.

3. Dorsett, Shaunnagh --- "Aboriginal Rights in the Offshore: Maori Customary Rights Under the Foreshore and Seabed Act 2004 (NZ)" [2006] GriffLawRw 4; (2006) 15(1) Griffith Law Review 74

This article considers the new Foreshore and Seabed Act 2004 (NZ). This Act was passed in response to the Court of Appeal decision in *Ngati Apa* in 2003, which determined that Maori customary rights had not been extinguished in the foreshore. The Act constitutes one of the more significant international developments in Aboriginal rights in recent years. This article will situate the main aspects of the Act within Commonwealth native title jurisprudence. In particular, it contrasts the approach of the New Zealand courts, and the subsequent legislation, with that of the High Court of Australia, and to a lesser extent the Supreme Court of Canada, in recent years. The article concludes that the New Zealand Act constitutes a particularly ungenerous approach to Aboriginal rights: one that imposes significant hurdles on claimants, even in comparison to Australian native title law.