

GUEST EDITORIAL: WORLD INDIGENOUS LEGAL CONFERENCE 2014 – SPECIAL FORUM

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The World Indigenous Legal Conference 2014 was hosted by the Indigenous Lawyers Association of Queensland, and held at Queensland University of Technology, Brisbane, from 24-27 June 2014. The conference brought together over 250 delegates from the academy, legal practice, and community and government organisations, representing a diverse range of Indigenous nations from Australia, Aotearoa, the Americas, Pacific Islands, Asia and Africa to discuss issues of importance to the survival of Indigenous peoples worldwide.

The conference theme ‘Past – Present – Future’ was inspired by Indigenous worldviews and conceptions of time as cyclic rather than lineal – with the present encompassing the past – and also holding the potential of the future,¹ with the conference seeking to progress a meaningful dialogue about remembering the past and looking to the future. The conference presentations focused on a number of key legal issues of significance to Indigenous peoples including:

- Indigenous human rights
- Indigenous knowledges and intellectual property
- criminal justice
- relationships to land
- recognition of Indigenous peoples
- economic development.

This collection of papers from the World Indigenous Legal Conference engages with a number of these conference themes, and particularly focuses on Indigenous human rights. While these papers deal with a diversity of Indigenous peoples, they also serve to highlight the common challenges faced by Indigenous peoples worldwide with issues of identity, recognition within nation states, discrimination, and historical and continuing genocide recurring threats to the survival of Indigenous peoples, knowledges and law into the future. These struggles are becoming increasingly urgent given the dire ecological crisis facing the global community, and the importance of Indigenous knowledge and law to caring for country and restoring harmony and balance in the relationships between all living things. As will become apparent however it is difficult to isolate the subject matter of these papers into discrete topics as the issues they explore are inter-connected, demonstrating the hegemony of state-dominated legal systems and their discriminatory and assimilationist impacts on first peoples. These papers also bring home

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¹ Irene Watson, *Aboriginal Peoples, Colonialism and International Law* (Routledge, 2014), 16 – see book review in this issue.

the local and specific nature of Indigenous peoples' fight for equality, recognition and respect within nation states.

Brett Hartley's 'Rwanda's Post-Genocide Approach To Ethnicity And Its Impact On The Batwa as an Indigenous People: An International Human Rights Law Perspective' provides a critique of Rwanda's approach to nation building – based on a universalised concept of ethnicity – which operates to deny Batwa claims to Indigeneity and concomittal rights. The paper considers how the Batwa may however use the normative frameworks of discrimination law and their marginalised status to assert their rights as Indigenous peoples in the new Rwanda. Yogeswaran Subramaniam's article on 'Ethnicity, Indigeneity and Indigenous Rights: The "Orang Asli" Experience', examines the constitutional and statutory frameworks for recognition of Peninsula Malaysia's Indigenous peoples — commonly known as the *Orang Asli* — and how current government policies promote assimilation and development at the expense of Indigenous rights despite Malaysia's stated commitment to the United Nations *Declaration on the Rights of Indigenous Peoples*. 'Queensland's Frontier Killing Times – Facing up To Genocide' is the focus of the paper by Hannah Baldry, Ailsa McKeon and Scott McDougall which provides a compelling analysis of Queensland's frontier history and how state-sanctioned massacres of Indigenous peoples constitute the crime of genocide in international law. The authors also discuss the well-known limitations of presenting a case of genocide before domestic courts, and advocate for acknowledgement and remembrance as a strategy to strengthen relations between Indigenous peoples and the state – reflecting the conference theme of remembering the past and looking towards the future. Fiona Campbell's 'The Cape York Welfare Reform – Continuing Acts of Paternalism' takes a broad historical view of current welfare initiatives in Cape York Aboriginal communities, arguing that the reforms represent ongoing forms of racial discrimination that breach statutory provisions specifically designed to prevent state infringements upon Indigenous peoples' right to own property. The collection concludes with a book review by Ivan Ingram of Professor Irene Watson's *Aboriginal Peoples, Colonialism and International Law*. Professor Watson's book offers a fresh perspective on how the colonial encounter has, and continues to impact on Indigenous law ways, and calls for a radical re-think on how 'recognition' might be achieved, by restoring the centrality of Indigenous law into the future.

These papers highlight how enduring forms of colonial power — and indeed claims to 'post-coloniality' — both obscure and contain Indigenous people's struggles for recognition, acknowledgement, and equality within nation states. Together these papers explore issues of both local and international significance to Indigenous peoples, and offer new insights to address some of the continuing injustices faced by Indigenous peoples today, with the hope of transforming normative legal frameworks so that Indigenous peoples, knowledges and law, can be accorded their lawful place – as it was and always should be.