ialects of Aboriginal, Torres Strait Islander and other Indigenous cultures. This article appeared on pages 5-10 in 69-70 of the original journal.

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Note: This document contains text that is difficult to read due to the quality of the image. The text appears to be a discussion on legal and cultural issues related to Indigenous peoples, with a focus on customary law and its implications. The article is part of a journal issue from 2002.
people want for custom law in our communities.
Justice Kirby in his 1986 broadcast said the law is a force for cohesion and discipline in society. This is the role that Aboriginal and Torres Strait Islander people want for our community law.

This would achieve two things:

1. Recognition of the place and rights of Indigenous people
2. Formal recognition of Indigenous custom law

The Indigenous people maintain a strong desire to see the formal recognition of Indigenous custom law as a valid and independent source of law alongside government law. The model of custom law in the states and territories is a way to achieve a balance between these two forms of law. Over the years since the issue of theRecognition of Indigenous Customary Law, has advanced usailely in response to emerging principles such as the Mabo decision. A stool has been suggested that this model is the form of government law in the states and territories to resolve issues of specific legislative interests such as sacred sites and heritage.

The final report, The Recognition of Aboriginal Customary Laws, was delivered in 1996 and stands as the most comprehensive study of Aboriginal and Torres Strait Islander Customary Law to date.

With this framework, the scope for practising custom law has widened along with our people's ability to sustain healthy communities.

Within this framework, the effort to seek recognition and respect for Aboriginal identity, which the ALRC had already commenced, was given fresh standing to Aboriginal society and protection.

It seeks to extend the rights of Aboriginal peoples to have their culture and language protected and preserved. It also seeks to extend the recognition of the role of traditional authorities in Aboriginal communities.

Justice Kirby in his 1986 broadcast, made this radio broadcast three years after the ALRC embarked on an extensive 12-month study of Aboriginal problems.

The recognition of Aboriginal Customary Laws is a step towards the realization of the right of Aboriginal peoples to have their culture and language protected and preserved. It also seeks to extend the recognition of the role of traditional authorities in Aboriginal communities.

Within this framework, the effort to seek recognition and respect for Aboriginal identity, which the ALRC had already commenced, was given fresh standing to Aboriginal society and protection.
The young peoples took legal action to protect their lands and cultures when the federal parliament dismissed their constitutional gestures with the Park Pétition.

Laws of men, "We had gained them the secrets of our life and they still refused to act."

"The Aboriginal traditional law answers that will foster acceptable social control at least some Aboriginal communities,"

"Just as our legal rights change, so we should expect Aboriginal laws to change and adapt. We must recognize the present and future threats to us."

To borrow Justice Kirby's words for one last time:

"In Western Victoria, Aboriginal people no longer carry spears but we still carry weapons of war. One of these weapons is our culture. One of these weapons is our history. We can and must never cease to recognize the strength of those things that were recorded in the traditional law."

HISTORICAL CONTEXT OF COMMUNITIES

Historical circumstances of communities

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LAW VS LAW

Apart from the natural responses that are applicable to our needs.
Formal recognition of customary law as a valid source of law alongside general Australian law has yet to be realised.

In recognition, rights and reforms of this article and reform, ASIL argued that Australia's national and domestic law is an integral and central part of Aboriginal and Torres Strait Islander culture and identity.

Other developments—such as the Madras decision, the development and amendment of native title regimes, and issues pursued under the Aboriginal and Torres

Starts Island Heritage Protection Act 1994 (Cth)—have focused attention on customary law matters, but not on a positive way.

In March 1994, the Attorney-General of the Coalition Government gave tentative support to formal recognition of customary law in legislation on


commission. The Senate Foreign Affairs, Defence and Trade

Support for the Report on Commonwealth Law Reform which would include:

The Commission’s Government should ensure that effective processes are put in place for addressing the recommendations of the Australian Law

Reform Commission Report on Commonwealth Law Reform which would include:

The next significant event was the ALRC Inquiry from 1997.

The Rules of association under section 43(4) states:

The Aboriginal and Torres Strait Islander Rights (Northern Australia) Act 1996 (Cth) established a scheme for incorporating indigenous community associations and councils under their own associations and under the

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The body of traditions, observances customs and beliefs of Aboriginal communities which could demonstrate traditional use of the area and their

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Law and a misrecognition of constitutional law

Despite this acknowledgment, since the Oakes decision in 1997, the Crown is not required to prove a specific Aboriginal custom or tradition in order to obtain permission or permission.
Article 33

and the right of effective measures by States to prevent any interference with, alienation of or encroachment upon these rights.

Articles 34 to 40 establish and enforce the rights of indigenous peoples and the rights of States and others to maintain and develop their cultures, traditions and systems of laws that are unique to their communities.

Six articles of the draft declaration deal with indigenous customary law and practices, among which are the following:

processes.

Article 34 provides the right to "recognize human rights..."

international legal system and with internationally recognized human rights."

The principles and norms of international law are set out in the Charter of the United Nations and the Universal Declaration of Human Rights, and are also reflected in the Declaration on the Rights of Indigenous Peoples.

For example, Article 8 of the International Labor Organization's Convention No. 169 states that indigenous peoples:

...shall be respected.

Australia continues to ignore or misunderstand developments that see increasing recognition for customary law in international instruments and in the work of international agencies.

International Trends

Canada...
court participation by indigenous elders with input into sentencing procedures.

- current and former police interviewees
- regular meetings between the police and justice groups to develop strategies to address youth crime, domestic and family violence.

Violence within indigenous communities is linked to the uncritically high over-representation of indigenous offenders at all stages of the criminal justice system.

Community Justice Initiatives

- for a criminal offence;
  - the common law in the Northern Territory has made it clear that judges can take customary law into account in sentencing an Aboriginal person.
- in the area of criminal law, 'indigenous law' are sometimes interpreted to include criminal law; and
- in the Northern Territory, traditional indigenous marriages are recognized for most purposes.

In new South Wales, the Northern Territory, South Australia and Victoria, adoption legislation recognizes traditional indigenous marriages.

In recent years, there has been greater interest in the ideas and commitment towards developing national principles for best practice indigenous community and strengthening indigenous communities against the problems of violence they are experiencing.

I recently held informal discussions with federal government officials on the prospect of supporting customary law and traditional authority structures to assist indigenous elders with input into sentencing procedures with input into sentencing procedures.

indigenous people have the right to promote, develop and maintain their institutional structures and their distinctive cultures, traditions, practices and procedures. In recognition of international human rights standards,
Dear Clark, the Chairman of the Aboriginal and Torres Strait Islander Commission,

Legends steps towards implement policies of reconciliation and inclusion. Alt of the people involved have provided the research and other nations have provided the example of governments now have the relatively straightforward task of Aboriginal and Torres Strait Islander people to take up our social responsibilities, but the pattern of history to date consists of denial and dismissal. The

It is a process that still needs to be researched, debated and developed. If it is a process that will complement the existing legal system - not replace it or tear it.

But we need the support of government to ensure consultation and consistency - and this means legislative or constitutional measures to guarantee longevity.

They are, and what they can achieve. We will do most of the work in our own communities. We will take charge and change the ways in which our communities function as a matter of principle. We need to make an investment in the resolution of grievances that support cultural authority and anchor our people in the sense of who

These are measures that begin to return to communities a sense of control, influence and removed identity.

- Various sharing techniques and assistance in the form of peers
- Sending offenders to programs for cultural learning and for stockwork or punishment
- Early intervention with child and youth offenders

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