

Cultural Heritage Conference Abstracts

Atkinson, Wayne

Koori Heritage in Victoria and the Struggle of Ownership and Control: Issues of ownership and control; principles of self-determination.

Chanock, Martin

Law and Legal Studies, Latrobe Uni

Globalisation and Property in Culture: In this paper I look at the widespread assertions of property rights in cultural resources which has accompanied globalisation and consider the place which culture and symbol have to play in the struggle to control resources.

Couvalis, George & Macdonald, Helen

Philosophy, Flinders University

Property Theory, Cultural Heritage and Identity: The dominant theories of property emphasise the purely economic value of property in enhancing our well-being. Such theories have difficulties in explaining why control over cultural heritage can be crucially important to our well-being. We argue that cultural heritage contributes to our positive sense of identity, and thus our well-being, in a manner that cannot be captured in terms of economic value. We discuss the consequences of our view for whether cultural heritage property can be justly acquired in return for monetary compensation.

Craig, Barry

Anthropology, SA Museum

Cultural Property Legislation in Papua New Guinea: This paper will briefly describe the history of cultural property legislation in Papua New Guinea (1913 in Papua, 1922 for New Guinea), describe a 'test-case' of its effectiveness, examine its conflicts with the Constitution of PNG and suggest that non-legalistic strategies are the most effective means of achieving the intent of the legislation.

Draper, Neale

Archaeology, Flinders University

The Myth of Indigenous Cultural heritage Protection in Australia: There are many places on the Australian landscape, and in its rivers, Lakes, and surrounding sea, which have special cultural significance for Indigenous Australians. These places are intended to be given recognition under various Commonwealth and State laws, which represent Australian Society's will to conserve and protect these heritage places for their scientific, historical, educational, tourism, and scenic values, their contribution to national and local identity - and most important - for their fundamental role in the survival and revival of Indigenous Australian cultural life.

But is such collective will, and its purposeful expression in Heritage protection legislation, any match for the insatiable appetites of large-scale commercial

development and the forces of political expediency or for the propensities and judgements of a legal system founded on the conquest and negation of Indigenous culture and society? Relevant aspects of the Hindmarsh Island Bridge saga and other contemporary rows between heritage conservation and commercial development are examined, in order to highlight some of the fundamental flaws, inconsistencies, loopholes, and illusions which contribute to the Myth of Indigenous Heritage Protection in Australia.

Forrest, Peter

Philosophy, Uni of New England

Cultural Heritage and Moral Persons: I shall develop some ideas of mine (Sophia 1994, pp 1- 13) in order to argue that such enduring collective entities as species cultures and traditions can have rights and obligations and can forgive and be forgiven, in ways comparable to individuals.

Hunt, Ian

Philosophy, Flinders University

Cultural Identity and Citizenship: Two requirements of freedom appear to conflict within a multicultural society. Since individual identity depends on cultural heritage, self-determination for individuals from differing cultural backgrounds appears to require support for diverse cultures from a single legal and institutional framework for society as a whole. The paper asks whether political and legal theory can offer a resolution to this conflict other than involuntary assimilation or national disintegration.

Jones, Peter

Law, Waikato University

Cultural Heritage and Intellectual Property: In an increasingly globalised trading environment, businesses are seeking markets/innovations from indigenous peoples and view their calls for intellectual property rights as money-driven. Some extensions of existing international copyright law into other areas of intellectual property law may provide solutions which could accommodate the wishes of indigenous peoples in offering protection of cultural items as well as allowing commercial development.

Kelly, Andrew

Centre for Natural Resources Law & Policy, Law, Uni of Wollongong

Protection of Landscape in NSW: Systems set up to conserve cultural heritage tend to focus almost exclusively on the built environment. This paper aims to consider the legitimacy of the visual landscape as an important element of Australian cultural heritage. It would critically examine the types of legal mechanisms being employed to conserve landscape in NSW. Because it is the day to day decisions of local authorities that arguably have the most impact on landscape change, the paper would concentrate largely on action (or lack thereof) at the local government level.

Leader, Lyn

Leader-Elliott and Associates

Cultural and Heritage Tourism Consultants: Cultural heritage is expressed in many ways, including through the arts, history, the built environment, social structures and lifestyle. All of these things are part of the raw material that attract travellers to destinations. In many places, aspects of cultural heritage have been presented as tourism product in ways that have distorted the heritage itself. As travellers' interest in exploring and experiencing cultural heritage grows, it becomes increasingly urgent to find ways of maintaining cultural integrity while seeking the economic benefit that tourism can bring. This paper will discuss issues such as cultural landscapes, recognition of local cultural heritage and identity, the role of interpretation and the relationship between the cultural and tourism industries.

Leiboff, Marett

Law, QUT

'Items' of archaeological heritage: the limitations of the approach of 'objects' in the archaeological heritage. Looks at Qld and the law of other jurisdictions in Australia in the light of the Commonwealth Mauritius agreement.

MacKenzies, Catherine

Dept. Govt, Uni of Qld

Safeguarding Cultural Heritage: The World Heritage Convention in Australia: This paper examines the operation of the World Heritage Convention in Australia and questions the validity of the regimes it establishes, through the operation of domestic law. The protection afforded to Aboriginal heritage in Kakadu National Park is examined and it is suggested that Kakadu and its supporting legislation may offer a model for other regimes.

Maddox, Marion

Religion, Uni of SA

'One God or Two?' Religious belief in the Hindmarsh Island Controversy: Religious belief is an important ground for Aboriginal heritage protection; but the legal system under which such protections are offered has valued freedom of religion, and balked at investigating religious beliefs. Heritage legislation allows for development and change in belief systems, but demands (on some interpretations at least) evidence of 'authenticity'. What makes belief 'authentic'? how do religious systems incorporate change? How does a secular society understand and interpret the religious discourse its own laws elicit? Cases like the Swan Brewery in Perth, the mining controversy at Coronation Hill, and SA's Hindmarsh Island have taken these questions into cabinet rooms, courtrooms and newspapers; but little formal philosophical attention has been paid to them. This paper will consider some events leading up to the Hindmarsh Island Royal Commission as a case-in-point of conflicting religious discourses. I will argue that overlooking technical questions about the nature and subtleties of religious belief had serious consequences for the

progress of the 'Hindmarsh Island Affair', and that attention to such questions could greatly contribute to the progress of further heritage protection cases.

Pardoe, Colin

Anthropology, SA Museum

Territory, History and the Archaeological Record: The use of the archaeological evidence and inference - how it is used for people's long-term history, and how it might be used in land rights/native claims, etc.

Poole, Ross

Philosophy, Macquarie University

National Identity, Multiculturalism and Aboriginal Rights: Nationalism is the principle that culture and politics should be coextensive. Liberalism involves the claim that cultural difference is a matter of private choice or commitment, not a matter of public concern. Multiculturalism is the principle that distinct cultures should receive explicit public recognition. Prima facie, there are clear tensions, and to examine ways in which they might be diminished. In many countries, indigenous groups - such as the Australian Aborigines - have a special claim in that their very presence within the state is due to an original act of expropriation. A second aim of the paper is to explore the nature of this special claim, and the extent to which it can be met within the political and cultural framework of the modern state.

Ratnapala, Suri

Law, Uni of Queensland

The Natural Selection Model and Cultural Heritage: Some problems of applying the natural selection model to cultural growth. The paper will identify the difficulties of explaining cultural evolution in terms of the random variation and selective retention model and consider whether they are surmountable. The paper will investigate the relevance to culture of the theories concerning complexity and self-organisation. It will propose that many cultural institutions including customary law, are worthy of respect although they may not be 'rationally' justified.

Reynolds, Chris

Law, Flinders University

The "Sacred" and the "Dangerous": the Symbolic Context of Law Claims by indigenous Australians to sacred sites are received sceptically by many other Australians. This is powerfully a product of the gulf between claimant and viewer which is deepened by the belief that the European legal system and the values that underpins it does not accept such claims to sacredness; that its logical and rational basis precludes these claims and the ideas about taboos and "dangers" that are typically associated with "primitive" cultures. Yet, this is not the case, such values and ideas have long been, and continue to be, the subject of Anglo/Australian law. We should recognise and consider this point for two reasons: firstly, it allows us to rethink an important but often

hidden dimension of the dominant legal tradition in Australia; secondly, if we are able to recognise the "sacred" and the "dangerous" and the symbolism in this dominant legal tradition, we might more readily recognise and value it in the traditions of Indigenous Australians.

Sauer-Thompson, Gary

Philosophy, Flinders University

Caring for Our Place in Post-modernity: This paper is concerned with the politics and ethics of place for citizens in a globalised economy. It argues 1) that place is socially constituted, 2) that place has multiple meanings of belonging 3) that an ethics of care helps us protect our built heritage as an alternative way of dwelling in a technocracy.

Staniforth, Mark

Archaeology, Flinders University

Historic Shipwrecks Legislation in Australia: This paper will consider the introduction and implementation of legislation for the protection of part of the underwater cultural heritage, namely shipwrecks in Australia.

Wiffen, Graeme

Law, Macquarie Uni.

The Built Environment: To survey the moves in the protection of the items of the built environment on cultural heritage grounds from reliance on Heritage Acts to reliance on planning statutes.