

# People, identity & place

A fair go in an age of terror: Countering the terrorist threat to human rights and the Australian identity

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We are gathered on the eve of National Sorry Day. On Thursday we will mark the anniversary of the 1967

First, Torres Strait Islanders were not traditionally hunters and gatherers. They cultivated vegetable gardens and lived in huts in settled villages, thereby having individual interests in discrete blocks of land rather than communal interests in vast tracts of country. Second, the Queensland crown as sovereign had continued to recognise Torres Strait interests in land. The Queensland government had even set up courts to determine land disputes between islanders even though no land titles had been granted by the crown.

I remember Eddie nursing the grievance that public servants in Brisbane or Thursday Island had asserted the power to deny him access to his island home even on the occasion of the death of a close relative. He had a passion for putting right an ancient wrong and the imagination and bold vision to see it through to the highest court in the land.

It is one of the tragic ironies of the law that Eddie did not establish his own native title claim in the end but he did provide the vehicle for a declaration of native title by the nation's highest court. Tonight I salute Bonita and the Mabo children as they keep alive the memory of one of the great Australian reformers.

Tonight, just a week off the twelfth anniversary, we are justified in celebrating the Mabo decision that recognised native title for the first time in Australia.

The decision provide

are no longer part of the Australian solution. That is a better starting point than the *terra nullius* mindset which preceded Mabo.







*involvement in the terrorist attacks of September 11. With the Holy See and many religious leaders*



Confronted with terrorist threats reaching our shores, government has a responsibility to arm police, defence and intelligence personnel with the powers to protect us while respecting the civil liberties of all persons. We Australians are now on our own with no Bill of Rights to guide our judges or restrict our governments. But for the government's incapacity to control the Senate, it would be able to ram all sorts of legislation through the parliament. Checks and balances are often time consuming, and they often provide opportunities for minor parties and sectional interest groups to engage in petty point scoring. The senate and the parliamentary committee system worked well when the government tried to bluff the parliament into passing amendments to the ASIO legislation that would have entrenched very draconian measures on our statute books in 2002. Originally the government proposed that ASIO would be able to

morality of our engagement in war, about the limits of ASIO's powers, about our treatment of asylum seekers and the identification of their deprivations with national security and border protection needs. There is an important democratic role for unelected citizens, including church leaders, to question government's public rationale and private purpose, to correct the misperceptions, and to espouse rational and coherent policies that do less harm to vulnerable people and to our peace and security. We would all profit from more respectful and rigorous dialogue between elected politicians and unelected community leaders, including between church and state.

As the sun rose over the tip of Cape York on 12 October 1993, the waters of the Torres Strait were exceedingly calm. As the sun glistened on the water, Father David Passi, the Anglican Pastor of the Island of Mer in the Murray Islands group, stood at the back of the speed boat pointing at a small island close to the shore, "That's Possession Island." David, a reserved man who has never been very political, had succeeded the previous year in moving the foundations of the Australian legal system. He and James Rice were the two Murray Island residents who joined with Eddie Mabo and succeeded on behalf of their people in claiming native title to their Island of Mer.

David smiled broadly as he showed me Possession Island where James Cook came ashore after his epic voyage up the Australian eastern coastline, raising his King's flag and claiming possession in His Majesty's name of all he had sailed passed.

In this age of terror, there are some political leaders who believe that the will of the United States is supreme. There are others who urge a return to multi-lateralism. The law and will of the Coalition of the Willing has to be brought into line with the law and will of the international community, co-operating through the strengthening of the United Nations and the international law criteria justifying humanitarian intervention and preemptive strikes against terrorist threats.

Church leaders, responsible civil servants, the courts, the senate, an independent media, and a robust civil society are entitled to express a contrary view to the executive government of the day, when that government enlists all of us with a coalition of the willing, without our consent, even if the majority are satisfied that the government will do and say whatever it takes to protect "us" against "them" in tough times. The morality of our engagement in the Iraq war cannot be left contingent only on two self-interested outcomes: one, whether our special relationship with the US bears fruit, and two, whether we are more immune from onshore terrorist attack. And even if it were so contingent, the jury is still out on both fronts. Truth and a more coherent morality of war may yet be even in our own short-term national interest in an Age of Terror.

Jim Wolfenson, President of the World Bank, in an address in February on a return visit to Australia, his home country, gave us an inspiring spur to action and reflection for a fair go for all people. He said:

*"I was fascinated today in my discussions with civil society to learn that, in a poll of Australian society, 85 per cent of people were prepared to support development assistance, and some 53 per cent of them supporting it strongly. But when asked the reasons why they supported it, it was not enlightened self-interest, it was not protection against terror, it was because it was morally and ethically right. I found that a remarkable statistic and a great tribute to the Australian people, in terms of what drives this country, in terms of its sense of equity and social justice."*

We shouldn't be afraid to say that a '