



RESOURCE

Background paper Aboriginal customary law: can it be recognised?

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Description / Abstract

This is one of a series of Background Papers that the Law Reform Commission of Western Australia has commissioned for the purposes of its reference on Aboriginal customary laws (Project No 94). The paper attempts to establish a balance between the practice of Aboriginal law in Western Australia and Australia's human rights obligations. Thus, it examines relevant Commonwealth legislation and international obligations with respect to matters of Aboriginal law. This involves the primary examination of two key questions: how is recognition of Aboriginal law consistent with international human rights law?; and how may recognition of Aboriginal law conflict with international human rights law? These two questions respond to frequently reported concerns in the community about how international human rights law can reconcile the recognition of Aboriginal law with the notion of universality of human rights and core principles of non-discrimination and equality before the law. Furthermore, the paper considers how the fundamental human rights of Indigenous individuals within a group, in particular women and children, can be guaranteed and protected and what type of cultural practices are viewed as harmful by international human rights law. (Introduction, edited). Public submissions are sought on the project.

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