

## Indigenous Incorporation as a Means to Empowerment

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### Introduction

Formal incorporation statutes are arguably the single most important way that public policy gives shape to Aboriginal governance. In much of what it does, the state addresses Indigenous Australians as individuals: recognising their rights as individuals to vote, to receive welfare benefits, to hold property, to receive award wages. The standardisation of such individual entitlements was the single most important achievement of the policy phase that we refer to as ‘assimilation’. Building on assimilation, but also to some extent countering its individuating logic, public policy since the 1970s has encouraged collective action. Advances in public policy – including land rights and native title statutes – have addressed Indigenous Australians as members or clients of Indigenous corporations. The study of Indigenous corporations is thus a major theme in our ongoing reflection on Indigenous affairs.

In his theoretical essay about Aboriginal organisations as possible vehicles of ‘development’, Robert Levitus has traced the thinking behind the *Aboriginal Councils and Associations Act 1976* (Cth) as an attempt to construct a ‘carapace’<sup>1</sup> over the ‘Aboriginal domain’ in order both to secure that domain’s politics from direct interference from outside and to enable Aboriginal participation, as collectives, in political and economic affairs. That the carapace is an artifice is central to his thinking: ‘[W]e can ... presume no necessary and natural dimensions of correspondence between Aboriginal groupings and Aboriginal organisations.’<sup>2</sup> Artificiality has no inherent political or moral significance. We must ask: what are these artifices good for?

In 2008, Diane Smith and Janet Hunt published a paper surveying what we know and think about Indigenous governance – which they characterised as ‘limited jurisdictional authority through the erratic enactment of land rights, native title and local government legislation in the states and territories.’<sup>3</sup> Their theme was that

1 The term is Charles Rowley’s. See Charles Rowley, *Outcasts in White Australia* (Penguin, 1972), 423, 429.

2 Robert Levitus, ‘Aboriginal Organisations and Development: The Structural Context’ in Jon Altman and David Martin (eds), *Power, Culture, Economy: Indigenous Australians and Mining* (CAEPR Research Monograph No 30) (ANU Press, 2009), 73, 87.

3 Diane Smith and Janet Hunt ‘Understanding Indigenous Australian Governance – Research, Theory and Representations’ in Janet Hunt et al (eds), *Contested Governance: Culture, Power and Institutions in Indigenous Australia* (CAEPR Research Monograph No 29) (ANU Press, 2008), 1, 3.

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