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Aboriginal Dispute Resolution: A Step Towards Self-Determination and Community Autonomy

Larissa Behrendt

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Larissa Behrendt argues for radical change in the system of resolving land disputes involving Aboriginal Australians. Writing from an Aboriginal perspective, she focuses on the law's history as oppressor of the Aboriginals: its role as the instrument by which Aboriginals were dispossessed of their land; by which their laws and culture were overridden; and by which they are still disproportionately imprisoned. She points out the entrenched barriers to Aboriginal acceptance that they will get justice from the court system. She is sceptical of modern alternative dispute resolution arbitration, mediation, etc as the answer; the power imbalance, central to the perception of injustice, remains fundamentally unaltered. Behrendt proposes radical change. Land disputes involving Aboriginals, whomever with, should be resolved by Elders on Aboriginal land using traditional Aboriginal methods. Giving worked examples of this system in operation, she demonstrates how the current power imbalance would be undermined. The result? By empowering the Aboriginal peoples, the basis for a genuine and lasting reconciliation is created.

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