



Yorta Yorta to pursue land claim

Australian - Wednesday, January 27, 1999

Author: Stuart Rintoul

THE Yorta Yorta people will attempt to revive their native title claim with an appeal to the full bench of the Federal Court, amid fears that last month's ruling by Justice Howard Olney has cast most native title claims in doubt.

A statement yesterday by the Yorta Yorta said acceptance of Justice Olney's savagely critical Federal Court ruling would be "tantamount to admitting the total genocide of a people" and would "perpetuate and entrench the white Australian conquest version of history". "The Yorta Yorta people are an identifiable nation of indigenous peoples who arose from this very land," it said.

"We are the survivors of ancestors who overcame tremendous odds to give us life and we owe them nothing but our total commitment to continue to defend our birthright and protect our country." The appeal, which will be lodged later this week, is expected to argue that Justice Olney misinterpreted the native title test laid down in Mabo, failed to allow for changed cultural practices, and placed too much store in questionable historical records at the expense of indigenous evidence.

The decision, which found not only that the "tide of history" had swept away the Yorta Yorta's claim, but that many of the claimants could not prove biological descent from the original inhabitants of the land at the time of colonisation, sent a shudder through Aboriginal Australia.

Lawyer Noel Pearson has told the Yorta Yorta that the test applied by Justice Olney would make native title inaccessible to Aboriginal people "south of Cairns". The Yorta Yorta's barrister, Bryan Keon-Cohen, said hundreds of claims could have been swept out by the ruling.

The Yorta Yorta case, seen as an important test case for native title claims in south-eastern Australia, appears inevitably headed towards the High Court.

Yorta Yorta spokeswoman Monica Morgan yesterday described Justice Olney's ruling as "ethnocentric". She said the test applied by Justice Olney had punished the Yorta Yorta for abuses committed against them during colonisation, which had affected their bloodlines.

Justice Olney also appeared to rely heavily on the amateur anthropology of squatter Edward Curr, which discredited the Yorta Yorta's claim of up to 4000 square kilometres spanning the Victoria-NSW border.

Ms Morgan said the Yorta Yorta had received strong support from Aboriginal people throughout Australia, who were concerned that their claims could not succeed while Justice Olney's ruling stood.

The Yorta Yorta's appeal is being funded by ATSIC.

"We have to appeal because they are trying to take away the very essence of our existence," she said.

Ms Morgan said the court appeal would be only one aspect of the Yorta Yorta's attempts to regain traditional country. The Yorta Yorta were among Aboriginal people who used Australia Day yesterday to call for a treaty to be formalised by 2001, describing themselves as impoverished and outcast from society.