



HUMAN RIGHTS
in AUSTRALIA

MAIN

[ABOUT](#)

[WRITING](#)

[ART](#)

[RADIO](#)

[READ & RIGHTS](#)

[HR IN THE NEWS](#)

[RESOURCES](#)

[CONTRIBUTORS](#)

[CONTACT US](#)

[ISSUES](#)

[HRAFF COVERAGE](#)

TOPICS

[ASYLUM SEEKERS](#)

[BILL OF RIGHTS](#)

[CHILDREN & YOUTH](#)

[DISABILITY](#)

[EDUCATION](#)

[EMPLOYMENT RIGHTS](#)

[ENVIRONMENT](#)

[EXPRESSION](#)

[FAIR TRIAL RIGHTS](#)

[GENDER & SEXUALITY](#)

[HEALTH](#)

[HOUSING](#)

[INDIGENOUS PEOPLE](#)

[INTERNATIONAL](#)

[AFFAIRS](#)

[OLDER PEOPLE](#)

[PRISONERS' RIGHTS](#)

[RACE &](#)

[DISCRIMINATION](#)

[RELIGION](#)

[RIGHT TO LIFE](#)

[TERRORISM](#)

[VOTING RIGHTS](#)

[WOMEN](#)

Published May 8, 2013

SEARCHING FOR THE RULE OF LAW IN THE JUNGLE

[ENVIRONMENT](#) [FAIR TRIAL RIGHTS](#) [FEATURES](#) [INDIGENOUS PEOPLE](#) [INTERNATIONAL AFFAIRS](#) / [1 COMMENT](#)



This article is part of a series responding to films featured at the Human Rights Arts and Film Festival.

More of [Right Now's coverage of HRAFF.](#)

By Kate Galloway

[Law of the Jungle](#) tells the story of the fight of Indigenous Peruvians to protect their land from the ravages of the oil industry. In what was to have been a peaceful protest by Amazonian villagers against Pluspetrol, a global petrol company, special forces police opened fire and in the melee, a police officer was killed. Fifty protesters were arrested, beaten and tortured. This beautiful and evocative documentary follows the trial of the protest leaders.

While ultimately the defence was successful, the suspenseful 12 month trial process highlights the precariousness of the rule of law when dealing with state-sanctioned corporate interests against Indigenous people and the environment. While the trial focused on the fact Pluspetrol had polluted the local rivers and the devastating impact of this pollution on the health of the Amazonian villagers, it was telling that protest leader Jose Fachin Ruiz acknowledged that the country needed to exploit the oil to ensure its development. The problem, in his view, is that so very few shared in the wealth.

So much of this story resonates in terms of the experience of Aboriginal and Torres Strait Islander Australians – notably in terms of the way in which they experience the Anglo-Australian justice system and the tension between economic development and environmental and cultural sustainability.

A contemporary issue in Australia, there are a variety of views concerning exploitation of natural resources in terms of development of Indigenous economic interests. The Wild Rivers legislation in Queensland and the LNG at James Price Point near Broome are two examples of this tension: there is a choice, it seems, between maintaining “wilderness” areas, and economic development for Indigenous Australians. While the film did not pursue this theme in particular, nor resolve the issue as to how this may be done sustainably, this is but one expression of the marginalisation of the Indigenous Peruvians.

The role of corporate interests in economic marginalisation represented in the film is also part of the Australian experience. Early and vocal opposition to native title in Australia by mining interests following both the Mabo and Wik decisions demonstrated the apparent incompatibility between corporate and Indigenous interests. The fact that this often shrill opposition was supported by government, for example by implementation of [Howard's Ten Point Plan](#) following Wik, illustrates the structure of real power.

Without suggesting that direct violence is the norm in Australia, this theme of corporate and state collusion played strongly in the film – in particular where the special forces police used disproportionate violence to protect corporate interests.

In the privileging of corporate interests through state complicity and structural bias, where is the rule of law?

Power is exerted too through the very structure of the legal system. The accused in the film cannot understand the nature of the criminal laws under which they are

being prosecuted – saying that “these laws are for city people.” They know a different law. The native title context in Australia sees a similar clash of cultures. On the one hand, traditional owners know and understand their relationship with land in the context of their community. They are however required to submit to the Anglo-Australian legal system to bring their own system of knowledge and laws within “mainstream” legal recognition.

This offers somewhat of a paradox, also reflected in the film. Those who “win” in this system, including those acquitted in *Law of the Jungle*, are operating within a foreign paradigm. While this can be said for so many who face our legal system, the cultural norms of the legal system in particular seem to disadvantage those who are most oppressed; those most “outside” the system. In the film, the lawyer who the accused reflects that he cannot guarantee that the lead judge will provide a fair trial. Indeed the judging panel admits that the accused have been discriminated against due to excessive delay. This is a particular issue for the accused, who are perhaps a week’s travel away from their homes and families, and whose families are left without their providers during the term of the trial.

Aboriginal and Torres Strait Islander Australians face similar hurdles within the legal system. In north Queensland, it is well known that accused are often brought to regional centres such as Cairns for trial, and when released face the challenge of returning to their remote communities. This often leaves them homeless.

These issues reflect not just legal problems, but social problems. In Peru, courts are required to take into account the circumstances of Indigenous people via a constitutional provision. While Australian courts often have guidelines relating to cultural issues, there are no constitutionally enshrined rights particularly protecting or recognising cultural matters facing Indigenous Australians.

Finally, and perhaps the underlying theme of the film, this relates to the rule of law itself and the question of a level playing field, one law for all. In the privileging of corporate interests through state complicity and structural bias, where is the rule of law? That the accused in the film were successful (including on appeal) brings a glimmer of hope but the question remains as to the legitimacy and consistency of the system overall.

This film is a powerful reminder that land rights are human rights – but also that the struggle of Indigenous peoples globally lies at the intersection of environment, culture, sovereignty, constitution and criminal justice.

[Watch a trailer of *Law of the Jungle*.](#)

[Buy a ticket to the *Law of the Jungle* screening at HRAFF: 8:15PM, Sunday 12 May 2013](#)

Kate Galloway is a senior lecturer in the School of Law at James Cook University, Cairns. She teaches property law and her research interests include property law, feminist legal theory and broader issues of social justice. She blogs [here](#).

[Tweet](#) 14

[Like](#) 4 people like this.

One Response to *Searching for the Rule of Law in the jungle*

1. [Pingback: Searching for the Rule of Law in the jungle | H...](#)

[LEAVE A REPLY](#)

Your email address will not be published. Required fields are marked *

Name *

Email *

Website

Spam protection: Sum of 6 + 7 ? *

Comment

You may use these HTML tags and attributes: `` `<abbr title="">` `<acronym title="">` `` `<blockquote cite="">` `<cite>` `<code>` `<del datetime="">` `` `<i>` `<q cite="">` `<strike>` ``

[Post Comment](#)