

**ABORIGINAL SOVEREIGN POSITION**  
**AND**  
**LEGAL ENTITLEMENT**  
**FOR**  
**NEGOTIATING A TREATY**  
**UNDER**  
**THE VIENNA CONVENTION**  
**ON THE**  
**LAW OF TREATIES**  
**WITH THE AUSTRALIAN 'GOVERNMENT'**  
**IN ORDER TO**  
**ENSHRINE**  
**ABORIGINAL SOVEREIGN RIGHTS**  
**AND CREATE THE**  
**FOUNDATIONS**  
**FOR**  
**BLACK/WHITE RELATIONS**  
**IN THIS LAND**  
**BASED ON**  
**LAND LIFE LAW JUSTICE**  
**AND PEACE**

# SUMMARY

Sovereignty has always inhered in the Aboriginal People of this land now known as 'Australia'. From the Beginning, the practise of customary and traditional ownership and possessory right has been held inviolate with the Aboriginal Nations and from these Sovereign Rights, all legal and social rights flow.

Aboriginal Sovereignty still inheres in the Aboriginal People of this land: it has never been extinguished by cession, by treaty, nor by formal purchase, nor by conquest; neither was it acquired by the invaders, the British/Australians, by peaceful settlement of an uninhabited land. Our land has been inhabited since the Beginning and resistance to invasion was so aggressive and protracted that the frontier has been described as a line of blood. This resistance has never ceased nor abated to this present day.

In order to enshrine our Sovereign Rights we pursue a Sovereign Treaty under international law with the 'Australian Government'.

## THE VIENNA CONVENTION ON THE LAW OF TREATIES

Reports of the Commission to the General Assembly  
Year book of the International Law Comm.  
Law of Treaties, 1966, Vol.ii.

Article 50. Treaties conflicting with a peremptory norm of general international law (*jus cogens*)

A treaty is void if it conflicts with a peremptory norm of general international law from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.

Part III.—Observance, application and interpretation of treaties

Section 1: Observance of treaties

Article 23. *Pacta sunt servanda*  
Every treaty in force is binding upon the parties to it and must be performed by them in good faith.

Section 2: Invalidity of treaties

Article 43. Provisions of internal law regarding competence to conclude a treaty

A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation of its internal law was manifest.

Article 10. Consent to be bound by a treaty expressed by signature

1. The consent of a State to be bound by a treaty is expressed by the signature of its representative when:

- The treaty provides that signature shall have that effect;
- It is otherwise established that the negotiating States were agreed that signature should have that effect;
- The intention of the State in question to give that effect to the signature appears from the full powers of its representative or was expressed during the negotiation

Article 25. Application of treaties to territory

Unless a different intention appears from the treaty or is otherwise established, the application of a treaty extends to the entire territory of each party.

AIATSIS Library, B G465.13/A1

"Aboriginal sovereignty: justice, the law and land", Kevin Gilbert  
Canberra 1988.

(m0066865\_p26\_a.pdf)

To cite this file use :

[http://www.aiatsis.gov.au/lbry/dig\\_prgm/treaty/t88/m0066865\\_a/m0066865\\_p26\\_a.pdf](http://www.aiatsis.gov.au/lbry/dig_prgm/treaty/t88/m0066865_a/m0066865_p26_a.pdf)

© Kevin Gilbert