Eddie Koiki Mabo, the Man

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Aboriginal and Torres Strait Islander people should be aware that this text may contain names and images of people who are deceased.
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Eddie Mabo became famous for fighting for the right to be known as the traditional owner of his land. He was the leader of a landmark court case. Today, this court case is often called ‘Mabo’.

Mabo was a Piadaram man from Murray Island in the Torres Strait Islands. He wanted to preserve his island culture, including the stories, songs, dances and art of his people. In his early life, he campaigned for workers’ and political rights, and he started a school just for Aboriginal and Torres Strait Islander children.
When Mabo found out that the Queensland government was the owner of Murray Island, he was shocked and angry. In 1982, he began a ten-year battle to have his people’s traditional ownership of the land recognised. This land rights court case would affect Australia’s future and correct some of the wrongs of the past.

**Land rights**

Traditionally, Indigenous Australians view the land and sea as part of their culture and who they are. They look after the land, and its animals and plants, and it looks after them. When British settlers arrived in Australia in 1788, they pushed Indigenous groups off their lands to make way for farms and houses. They said the land did not belong to the Indigenous people. Since then, Indigenous people have been fighting for the right to live on their native lands.

Mabo had a vision for himself and his people. He was proud, stubborn, and passionate. His long legal and personal fight continues to be an inspiration to Indigenous and non-Indigenous Australians today.
Family and home

On 29 June 1936, a baby boy was born on a small island in the Torres Strait, north of the Australian mainland. On most maps, this island is called Murray Island, but the local people know it as Mer. This boy would grow up and become a great protector and supporter of Mer and its people.

The parents of the baby were Robert Zezou Sambo and Annie Mabo of the Piadaram people. This was their fifth child and they named him Edward Koiki Sambo. Koiki was his Torres Strait Islander name, and Edward was his white name. His nickname would be Eddie.

Unfortunately, Eddie’s mother died shortly after giving birth, and, according to the law of the people, Eddie’s uncle – not his father – was now responsible for him. Benny Mabo, Eddie’s uncle, and his wife, Maiga, adopted the baby and his name was changed to Eddie Koiki Mabo.

Under Torres Strait Islander law, Benny Mabo was now Eddie’s father. This meant that Benny could pass on his land to Eddie when he died.
Murray Island

Murray Island is part of the Murray Island Group in the Torres Strait Islands.

Murray Island looks like a big hill rising out of the sea. Most of the land is covered in dense forest, and it has red soil that is very good for farming.

There are eight Murray Island peoples: Komet, Zagareb, Meuram, Magaram, Geuram, Peibre-Dauer, Meriam-Samsep and Piadram. Traditionally, they speak the Meriam Mer language. Today they also speak some English and a mixed language called Torres Strait Creole.
When Mabo was born in 1936, about 300 people lived on Murray Island. Traditionally, Murray Islanders eat fish, turtle and shellfish, as well as meat from a sea mammal called a dugong. They catch their food in many different ways, such as spearing it or building stone-walled traps to catch fish when the tide comes in.

The people also grew their own food. This included starch plants such as taro and yams, and other vegetables. They made traditional medicines from sea and land plants.
Traditionally, Murray Islanders were skilled sailors, using canoes for both fishing and fighting. For fishing, they used a small canoe with an outrigger. An outrigger is a log that is attached to and floats beside the canoe, making it almost unsinkable.

The Murray Islanders were the fiercest warriors in the Torres Strait. Traditionally, all the men went to war. They often tried to kill warriors from the neighbouring island of Darnley, and the Darnley warriors tried to kill them.

For war, they used large canoes with two outriggers and woven sails. Each canoe was given a name. Many canoes were 22 metres long, with 6-metre outriggers on each side. The chief and his bodyguards were armed with stone-headed clubs and shark-tooth swords. Bowmen on the canoes were shielded by the high sides as they fired showers of arrows at their enemies. The bamboo bows were two metres long. Only very strong men could string them.
The Piadaram people

Mabo was born and raised in the village of Las, on the eastern coast of Murray Island. Las is the traditional home of the Piadaram people.

The first language Mabo spoke was Meriam Mer. His father Benny told him stories and legends about Murray Island and its people. He taught Eddie how to catch fish, the seasons to plant crops, and how to grow bananas and yams.

Growing up, Mabo also learnt the dances, songs, stories and art of his people. He learnt about his people’s spiritual connections to the land and sea, and about the ancestors, gods, warriors and totems of his people.

Las is the traditional home of the powerful gods Bomai and Malo, and the Malo tradition was important to Mabo. Malo is part-man and part-octopus. He gave the people rules about land boundaries, ownership and working together.
Traditional priests, called Zogo, made idols of Malo, which were figures decorated with tortoise-shell masks that they could worship. The Meriam warriors hung the heads of the enemies they had killed on the idols and in the temple, called the Zogo house. This practice is called headhunting.

In Torres Strait Islander culture, totems are animals or things that have a special significance or connection to a group or person. They are essential to a person’s behaviour, relationships and identity. The shark constellation, tiger shark, Torres Strait pigeon, driftwood and whale are special totems to the Piadaram. Mabo’s own totems were the shark and Torres Strait pigeon. He learned to paint totem designs on himself and in his art, and to perform totem dances and songs.

**English words**

Words like ‘gods’, ‘totems’ and ‘priests’ are English words used to describe Torres Strait Islander beliefs and might not accurately describe the belief.
Murray Islanders had lived mostly undisturbed for thousands of years. But by 1936, when Eddie Mabo was born, the Torres Strait Islands had been claimed by Queensland and foreigners had brought their religions and ways to the islands. For hundreds of years, the islanders had seen white people sail past. They called them lamars and thought they were islanders who had died and become ghosts. They thought that the lamars would bring death and disaster, and the Murray Island warriors would try to kill any shipwreck survivors in the area.
Sometimes someone would claim that a captured *lamar* was the ghost of their dead son or daughter and would not want to kill them. These white people then lived as part of the group.

**Pearlers and fishers**

Europeans and other foreigners eventually came to the Torres Strait Islands in large numbers. In 1868, Captain William Banner became the first person to take a load of pearl shell from the Torres Strait to Sydney, in New South Wales. The pearlers built headquarters on Thursday Island, in the strait, and the industry expanded rapidly.

The owners of the pearling ships, which were called luggers, paid island chiefs for Torres Strait Islander help to dive and collect the pearl shells. They paid in hatchets, or small axes, and iron, which the islanders prized above the pearls.

Some people kidnapped Torres Strait Islanders and forced them to work in bad conditions. They used them or sold them to work as divers to collect pearl shells, trochus (a type of sea snail prized for its shell) or trepang (sea cucumber that is eaten in Asia).
Christian missionaries

Christians known as missionaries came to the islands to spread their faith. In 1872, Maitaka, a Samoan teacher, came to Murray Island to teach the people about Christianity. Other Christian teachers went to other islands. This event is now called the Coming of the Light, and Torres Strait Islanders celebrate a Coming of the Light festival each year.

The introduction of Christianity to the area helped stop headhunting, but traditional spiritual beliefs were not completely lost. Most Torres Strait Islanders became Christians but also kept some of their own traditional customs as part of their Christian worship.

The Malo-Bomai religion

The traditional Malo-Bomai religion is represented today by an octopus. Each tentacle represents one group of Meriam people, and the central body represents the strength and unity of Murray Island.
Queensland takes control

In 1872, the Queensland government claimed that many of the islands in the Torres Strait belonged to them. Many people were making large amounts of money from pearling and fishing in the Torres Strait and the Queensland government wanted to share the profit. In 1879, Queensland extended its boundary to include Murray Island.

When Queensland took control, they took power away from the traditional elders. The elders were the people who made decisions and passed on knowledge.

Under the new system, the hereditary chief of the island was made chief magistrate. He presided in the courthouse and made decisions on minor crimes. He was paid by the Queensland government and had Torres Strait Islander police to support him.
The new system brought some peace and security. In 1884, Queensland passed a law to prevent the kidnapping of Indigenous Australians and the worst crimes of the white pearlers and fishers were stopped.

When Eddie Mabo was born, the Torres Strait Islands were managed by Queensland’s Chief Protector of Aborigines and the Department of Native Affairs. In 1936, Robert Sambo, Eddie’s biological father, led a strike to convince the government that Murray Islanders should be paid more for their work. As a result, in 1939, the Queensland government passed the *Torres Strait Islanders Act*. This law allowed the Murray Islanders to elect their own representatives to a council, and use their own court to discipline their own people.
Eddie Mabo spent his early years on Murray Island, before leaving the island to work as a teacher’s assistant and a pearl diver. His early working life had a huge influence on the rest of his life. He began to campaign for the rights of others and he was learning to become a leader, like his biological father Robert Sambo. In 1941, World War II had come to the Torres Strait. Robert Sambo was the first Torres Strait Islander to join the Australian army. He wanted to help defend the strait against enemy Japanese soldiers. Soon, more than 700 Torres Strait Islanders had volunteered.
Primary school and first jobs

Mabo was a nine-year-old schoolboy when World War II ended in 1945. At the time, the Queensland Department of Education provided only primary schooling on Murray Island. In those days, many children started working once they finished primary school.

Teacher Robert Miles had a big influence on Mabo. He let the children use their own language, and he also convinced Mabo to learn English so that he would have more options in the future. After Robert Miles moved to teach on another island, Mabo went with him and worked as a teacher’s assistant, teaching English to five-year-old students. It was his first paid job.

In the early 1950s, the tropical disease malaria swept through the Torres Strait, and Mabo worked as an interpreter for a Queensland doctor, Doctor McKerris. He travelled with her to New Guinea and to Aboriginal missions around Cape York on the Australian mainland. Missions were reserves run by the church to house Aboriginal people.
Banished from home

Mabo was intelligent and determined – and he did not like to follow orders. In 1955, at 19 years old, he was told to go to the court on Murray Island.

‘Someone had complained that they had seen me with some female and I was under the influence [affected by alcohol] ... it was my tuba - a liquor [alcohol] we make out of coconut palms. And of course I was challenged to court and was charged ... So the councillors then ordered me to get off Murray for twelve months ... and I did.’


While banished, Mabo worked as a deckhand and a pearl diver on the boat *Adiana*. As a diver, he swam along the ocean floor, collecting pearl shells and putting them in a net. When the net was full, a deckhand pulled it up to the boat. The oysters were opened and any pearls were taken out. The deckhand’s job was to make sure the diver’s air hose was clear and warn him if bad weather was coming.
Life on mainland Australia

Mabo decided not to return to Murray Island. His mother Maiga encouraged him to find work on the mainland, where there were more jobs and better pay. Thousands of Islanders had moved to the Australian mainland looking for jobs.

In 1957, at 21 years old, Mabo left the Adiana at Cairns, in Queensland. He worked a series of jobs, such as working as a deckhand, cutting sugarcane and laying railways. Hard manual labour was the only type of work available to Torres Strait Islanders in Australia in the 1950s.

This was the beginning of Eddie Mabo’s long life of activism, or working and campaigning to bring about social and political change. He became the spokesperson for the Torres Strait Islander gang that worked on the railways. As their representative, he often met with white Australian trade union officials. Mabo learned a lot about worker’s rights and working together for change.
In 1958, at a wedding in Halifax, in north Queensland, Mabo met a 16-year-old girl called Bonita Nehow. She had been born in nearby Ingham. Her mother was from the Malanbarra people of Palm Island, near Ingham, and her father’s people were from islands near Vanuatu, in the South Pacific.

Mabo had to return to his job cutting cane near Innisfail, Queensland, but wrote to Bonita weekly. They learned a lot about each other through their letters. On 10 October 1959, at 23 years old, Edward Mabo married Bonita Nehow at the Methodist Church in Ingham.

Mabo continued to work long and hard, and to follow jobs wherever they took him. In 1962, he and Bonita moved their young family to Townsville. They had saved enough money for a deposit on a house.
Eddie and Bonita raised seven children of their own and, following Torres Strait Islander tradition, they adopted three more from their extended family. Their names were Eddie Junior, Maria Jessie, Bethal, Gail, Mal, Malita, Celuia, Mario, Wannee and Ezra.

Even though he was now living far away from Murray Island, it was very important to Mabo that his children know his culture and learn the stories of Murray Island. This included the dances, songs, rituals and art. At home, Mabo always spoke about doing the right thing and making a difference.

‘It was as if there was not enough hours in the day for Eddie to do all the things he wanted to do. He loved reading books about his people and was curious about what other people, anthropologists [people who study the origins, behaviours and cultures of humans] and those people were saying. He was hungry for knowledge and read and spoke to as many people as he could.’

– Bonita Mabo, National Indigenous Times, 30 May 2012
Standing up for his – and others’ – rights

In 1960, when he was 24 years old, Mabo worked on the Townsville–Mount Isa rail construction project. He became the union representative, and began to attend meetings of the local Trades and Labour Council, as well as the Queensland State Conferences of the Communist Party. He also joined the dockworkers’ trade union.

Mabo became a founding member and secretary of the Townsville branch of the Aboriginal and Torres Strait Islanders’ Advancement League. The league was formed to help Indigenous Australians with employment, housing, health and education. Bonita helped him with his work.

‘There were only a few of us, Mum Stanley, Jeannie Morris, Evelyn Scott, Tom Sullivan and Old Dick Hoolihan, Koiki and I. Every weekend we ran dances to raise money to send people to Canberra, to talk to the ministers, to get money. And we ended up getting enough money to open a little office.’

– Bonita Mabo, National Indigenous Times, 30 May 2012
In 1970, in his early thirties, Mabo resigned from the Townsville league to become the president of the new Council for the Rights of Indigenous People. This all-Indigenous Australian organisation began the first Indigenous legal aid service, a medical service, and a community school. Mabo worked on the council because he thought that it was important for the Indigenous people of the Townsville area to make their own decisions and to control their own social services.

‘It got to the stage when I used to say to myself, "here we go again - he’s home and all he wants to do is talk politics." It was like Eddie couldn’t get enough of politics.’
– Bonita Mabo, National Indigenous Times, 30 May 2012

‘Netta [Bonita] supported me all the way.’
– Eddie Koiki Mabo, Eddie Koiki Mabo: His Life and Struggle for Land Rights, 1996
The 1960s and 1970s were times of great change all over the world. Indigenous Australians began to receive greater recognition and rights, and the land rights movement grew stronger. Along the way, Eddie Mabo was there, fighting for the rights of his people.

The 1967 referendum
On 27 May 1967, the Australian government held a national vote, called a referendum. It asked the people of Australia whether two particular parts of the Constitution – which sets out the way Australia should be ruled – should be changed.
One part said that Aboriginal and Torres Strait Islander people were not to be counted as part of the population. Another part said that only the state and territory governments could make laws for Indigenous Australians, not the national government.

Eddie threw himself into the campaign to vote ‘yes’ to change the Constitution. When the nation voted, the results were clear. Ninety per cent of Australia voted ‘yes’. For the first time, Australia’s Indigenous peoples were recognised as citizens and the Commonwealth government – which is Australia’s national government, based in Canberra – could make laws and look after Aboriginal and Torres Strait Islander affairs. Laws that restricted the rights of Indigenous Australians were starting to be overturned.

**The land rights movement**

People thought the Commonwealth government might now focus on Aboriginal land rights. In the 1960s and 1970s, many non-Indigenous Australians began to support land rights, too.
One huge fight for land rights had begun in 1966 at Wave Hill Station, on Gurindji country in the Northern Territory. Vincent Lingiari led 200 Gurindji workers and family members in a work strike, to push for the return of their land. In 1975, Prime Minister Gough Whitlam’s government gave the Gurindji people the right to rent and live on their traditional lands.

**The Racial Discrimination Act (1975)**

In 1975, under Whitlam’s government, the Australian parliament passed the *Racial Discrimination Act*. The new national law meant that treating people differently or unfairly because of the colour of their skin was now illegal. This law applies to all of Australia, overriding all state and territory laws.

The *Racial Discrimination Act* is very important because it gave Indigenous Australians the same rights as other Australians. This law would also eventually help Eddie Mabo win land rights for the Murray Island people in 1992.
Before this law, Indigenous Australians were treated very differently to non-Indigenous Australians, both under the law and in their everyday lives in Australian communities. They had to ask for permission from the government to leave the reserve where they lived or to leave Australia. They often were not allowed to use public swimming pools or public toilets, and they had to sit in different areas at cinemas. Even returned Indigenous Australian soldiers were not allowed into the Returned Soldiers League (RSL) clubs.

‘... you weren’t allowed into swimming pools ... Weren’t allowed in pubs, and there’s many stories we could tell about our returned soldiers coming back and being denied services.’

– Flo Grant, Wiradjuri Elder, ABC News, 19 February 2015
Continuing to fight for change

The changing times of the 1960s and 1970s had a great effect on Eddie Mabo’s life, too. The Whitlam government of the early 1970s had increased money for Aboriginal programs, and Mabo’s life became even busier. He became involved in the Townsville Aboriginal and Islander Legal Service and the Health Service.

From 1975 to 1980, Mabo was president of Yumba Meta Housing Cooperative, which bought houses in Townsville and rented them to Aboriginal and Torres Strait Islander people. Instead of being in separate suburbs, Indigenous and non-Indigenous Australians now lived together, in the same areas.

Starting the Black Community School

Mabo thought that it was very important that children learned their own language and culture, as well as the language and culture of white Australians. So he and other parents established the Black Community School.
The Black Community School was based in Townsville, Queensland, and Mabo became its director. His job was to find students for the school and look for funding. He also had to reply to criticism from the local media that he was teaching the students how to fight for what they wanted. Despite being busy raising a young family, Bonita Mabo played a major role at the school.

‘There is a fear when I started that I’m teaching Black Power over there. Perhaps it would be better than teaching white power, wouldn’t it.’


In 1973, in its first year, the school had 10 students and operated from an old Catholic school building in the heart of inner-city Townsville. At its largest, in the late 1970s, 45 students were enrolled at the school.
The school ran for 12 years. It closed in 1985, due to lack of funding and because Mabo and the other parents were not able to rent a permanent site for it.

The school’s aims were:

(a) to give black children an alternative education more suited to their needs;
(b) to involve the children’s parents and community in these children’s education;
(c) to avoid the post grade four slump [slow-down] in learning by substituting a schooling which will give encouragement and hope, not indifference;
(d) to substitute teachers who are understanding of Aborigine’s difficulties and differences in outlook and aspiration [hope and ambition]
(e) to provide a satisfactory climate for the tuition [teaching] of children who are academically oriented and motivated towards eventual tertiary [university] education, and;
(f) to be a focus around which the Black community can operate.

– Black Community School Manifesto, 1973–1985
Eddie Mabo wanted to return to Murray Island, to his land, but many things stood in his way. The hurdles he faced at this time made him determined to fight even harder for recognition and equality.

**Wanting to visit his dying father**

In 1972, when he was 36 years old, Mabo had planned a trip to Murray Island. He had not been back since he was banished in 1955. He wanted to visit his father, Benny Mabo, who had a serious disease called tuberculosis. Tuberculosis killed many Torres Strait Islanders at the time.
Mabo and his family travelled to Thursday Island where they could catch a boat to Murray Island. From there, they sent messages to the chairman of the Murray Island Council, asking for permission to visit. But the elders and chairman refused. After several weeks, the Mabo family returned to Townsville.

Six weeks later, Mabo received a message saying that his father had died. He cried. His children never had the chance to meet their grandfather.

**A disapproving council**

Mabo had been speaking up for workers’ and Indigenous rights on mainland Australia for years, but the council on Murray Island still thought he was a troublemaker. They thought that his new ideas from ‘down south’, on the mainland, were a threat to their leadership.

The council had the right to refuse people entry to the island. After many islanders moved to the mainland in the 1950s and 1960s, many councillors said that they had given up their rights to live on the island. They called them ‘non-islanders’.
Mabo believed that the Queensland government had plotted with the council to stop his visits because he had been involved with the trade unions and communist groups. He never forgave them.

Mabo talked constantly about going back to Murray Island. He was a skilled painter and when he felt homesick, he would paint pictures of the island and sing island songs to remind himself of his father, mother and family and the island and culture he had left behind.

In 1973 and 1974, Mabo tried again to return to Murray Island, this time to do research for James Cook University, Townsville. The History department had given him money to travel through the islands, making recordings of people talking about island life, stories and culture. The council on Murray Island again refused permission to visit.

In 1974, the chairman of the council granted Mabo permission to visit on the condition that he did not involve himself in ‘political affairs’. Mabo would not agree. He found the condition insulting.
‘Murray Island is not your land’

In 1967, when he was 31 years old, Mabo had become a gardener at James Cook University, in Townsville, Queensland. As well as gardening, he sat in on lectures, went to the library, and read many books, particularly ones about his people on Murray Island. He met Doctor Noel Loos and Professor Henry Reynolds, who asked him to give lectures on Torres Strait Islander culture and political issues.

In 1974, Mabo learned the truth.

‘... we were having lunch one day in Reynold’s office when Koiki [Eddie] was just speaking about his land back on Mer [Murray Island]. Henry and I realised that he thought he owned that land, so we glanced at each other, and then had the difficult responsibility of telling him that he didn’t own that land, and that it was Crown land. Koiki was surprised, shocked and even ... I remember him saying “No way, it’s not theirs, it’s ours.”’

– Noel Loos, First Australians: We Are No Longer Shadows, 2008
According to Australian law, Murray Island was Crown land, which meant that it belonged to the Australian government, not the Meriam people.

**Terra nullius**

*Terra nullius* is a Latin phrase meaning ‘the land of no-one’, and Europeans used it to describe land that did not belong to another country. The British thought that Australia was *terra nullius* when they arrived in 1788, and that they had every right to claim it and take it over. This legal idea was the main argument used to take land from the Indigenous Australians.

**Returning home, finally**

In 1977, the Murray Island Council changed, and from then until his death, Mabo visited Murray Island two or three times a year. He and Bonita planned to move back there when their children finished school.
'I believed the islands were mine. No one could stop me going there. In 1977 I hired a boat and went there with my family. I expected to be arrested by the Queensland police but when my people saw me no one complained. That's what led to this case Mabo and Others against Queensland and the Commonwealth.'


Still, not everyone on Murray Island agreed with Mabo and his thoughts about land rights. Some people just wanted things to stay the same. When he went back to Murray Island for meetings, they did not want to hear his views.

‘... the thing that really affected Eddie and also me was when he went back home for meetings with his community on Murray Island, I remember the Mayor saying for him not to bring that southern nonsense up to the Island with him.

I also remember him ordering Eddie out of the community meetings. And of course I followed him out of the community meeting with other supporters.’

Fighting for land rights

Mabo was angry when he was told that his traditional land did not belong to him. Encouraged by Noel Loos and Henry Reynolds, he started to learn all he could about land rights.

‘My family has occupied the land for hundreds of years before Captain Cook was born. They are now trying to say I cannot own it.’


To support Mabo, students from James Cook University organised a land rights conference in 1981. They invited experts in Indigenous land rights. These land rights are also often called ‘native title’. These experts included lawyers Greg McIntyre and Barbara Hocking.

At the conference, Mabo made a speech describing traditional land ownership and inheritance on Murray Island. His speech impressed Greg McIntyre, who suggested they run a test court case, to claim land rights.
If the test case was successful, it could result in a change in land rights laws.

Mabo agreed. He and four other Murray Islanders decided they would challenge the idea of *terra nullius* in court. The legal battle that they were about to start would last for ten years.

**A personal struggle**

For Mabo, the legal fight would be difficult, both financially and personally. Because he spent most of the 1980s travelling between the Torres Strait Islands, Townsville and Brisbane, he could not do paid work. He was like an unpaid, full-time politician.

Mabo had a lot of personal support during this time from Doctor Loos and Professor Reynolds. They were not just educated and smart men who happened to chat with him, they were strong supporters of Indigenous Australians and Indigenous rights generally.

Mabo also received constant support from his wife and children. Mabo’s daughter Gail remembers her father’s long fight.
'My first impressions of the struggle for social justice and human rights was of my father sitting at the kitchen table in a blue haze of cigarette smoke, writing. I was eight and at the time I did not understand what he was trying to achieve. All I wanted to know was why he was awake at 2 o’clock in the morning and why he wasn’t tired.

‘As I grew older I used to sit with my father and he used to explain what he was doing and why he was doing it. He always talked about his home, and how the land on the island would be ours when the time came. My father believed in fighting for his rights through the help of his family, the indigenous communities and the legal system. His political struggle and fight for recognition was reflected in the projects he undertook and the goals he set for himself.’

The Mabo case was going to change Australian law and politics forever. In early 1982, after months of legal, historical and anthropological research, it was time to start the legal fight for land rights.

Everyone was set for a long court case. Mabo and the other four Murray Islanders were ready, their lawyers were prepared, the issues had been identified and the statement of claim was nearly done. But there was not enough money to run the Mabo case. Just in time, the Australian government granted the team $50,000.
On 20 May 1982, they lodged their claim to native title in the Murray Islands with the High Court of Australia. In 1986, the High Court sent the case to the Supreme Court in Queensland to hear and determine the facts of the claim.

Although the government grant helped, the Mabo team found it hard to afford the legal costs of the trial. In comparison, the Queensland government had huge amounts of money and other resources to fight with.

**Case background**

In 1879, the Queensland government had taken the Murray Islands under the legal concept of *terra nullius*. This was the idea that no one owned the land.

The case, called *Mabo v. Queensland*, challenged this idea. The team was bringing a case against the Queensland government in order to prove that Mabo and four others owned particular areas of land on the Murray Islands. This would be a test case to prove that all Torres Strait Islanders had the right to own their traditional land.
The five people filing the case, called the plaintiffs, were Eddie Mabo, Sam Passi, Father Dave Passi, James Rice and Celuia Mapo Salee. Mabo was the leader. The hearing of evidence for the case would begin in the Queensland Supreme Court in 1986, and then the High Court in Canberra would hear the legal issues and make a ruling.

The Mabo case worried the Queensland government, so, in 1985, the Queensland parliament quickly passed a new law called the Queensland Coast Islands Declaratory Act. This law aimed to get rid of any rights the Meriam people had to their land under traditional law, from 1879 onwards.

The Mabo lawyers thought that the Queensland government should not be able to use the Queensland Coast Islands Declaratory Act in its defence, because, under the Racial Discrimination Act, this law discriminated against Torres Strait Islanders. In 1988, the Mabo team brought a second case to the High Court, making this legal argument.
Victory – for now

The original case was put on hold while the Mabo lawyers asked the High Court of Australia to decide if the Queensland government’s new Queensland Coast Islands Declaratory Act was legal or if it clashed with federal law. If the new law was considered legal, it would put a stop to any native title claim.

The Mabo lawyers pointed out that the Racial Discrimination Act states that if any Australian law takes away any right of a person, due to race or ethnicity, then that law does not have effect.

Four out of seven of the High Court judges agreed. They found that native title rights should be treated as part of a human right to own and inherit property. They said that the effect of the Queensland Coast Islands Declaratory Act was to take the right to own and inherit traditional property away from the Murray Islanders. This would discriminate against them, so it was against Australian anti-discrimination law. This 1988 case and decision became known as Mabo v. Queensland (No. 1).
The Mabo plaintiffs
Each of the five people filing the case claimed ownership of particular traditional lands in the Torres Strait Islands.

Profile: Eddie Mabo
Eddie Mabo was the group leader. He was born on Murray Island in 1936, and spent most of his life working for the rights of Aboriginal and Torres Strait Islander people. He was 45 years old when the case was filed in 1982. He was claiming Mabo land on Murray Island.

Profile: Sam Passi
Sam Passi was born on 29 August 1912 on Murray Island. He was Eddie Mabo’s cousin. He was educated at the Murray Island mission school and later worked as a diver for trochus (sea snails) and trepang (sea cucumbers) before becoming a schoolteacher and school principal on Murray Island. He was also on the Murray Island Council for many years, and ran a turtle-farming business. Sam was a traditional landholder on Dauar Island.
Profile: Father Dave Passi

Born in 1932, Dave Passi was Sam Passi’s younger brother and another cousin of Mabo. He was an Anglican priest on Murray Island.

‘It is my father’s land, my grandfather’s land, my grandmother’s land. I am related to it, it gives me my identity. If I don’t fight for it, then I will be moved out of it and [it] will be the loss of my identity.’

– Father Dave Passi, Land Bilong Islanders, 1990

Profile: James Rice

James Rice was born on 1 October 1929. He grew up at Webok village on Murray Island, where his father was living, and lived on the island most of his life. He was a member of the Murray Island Council. He studied in Brisbane and Cairns and taught school on Murray Island and other islands. Rice claimed title to land and waters on the islands of Dawar and Murray Island.

‘I was not there for the Rice family, but for all the world.’

– James Rice, Sydney Morning Herald, 2 June 2012
Profile: Celuia Mapo Salee

Celuia Mapo Salee was Mabo’s great-aunt on his father’s side. She was the oldest living member of Mabo’s family. She claimed the lands of the Mabo family group on Murray Island, together with the seabed and stone-walled fish traps that extended from the land at Las to the fringe reef. She also claimed the lands of the Goi family group on the island.

The Mabo lawyers

The Mabo legal team was made up of different types of lawyers, including barristers and Queen’s Counsels, or senior lawyers, who appeared before the court.

Profile: Greg McIntyre

Greg McIntyre graduated from the University of Western Australia in 1974. In the late 1970s and early 1980s, he researched Aboriginal land rights. He presented his research at a conference at James Cook University in 1981. There, he met Mabo, who told him to begin the legal proceedings that would become the Mabo case. Greg brought on the barristers Ron Castan and Bryan Keon-Cohen.
Profile: Barbara Hocking

Barbara Hocking’s 1981 paper on Indigenous Australian land rights helped start the landmark Mabo case. She was a member of the legal team until 1986. She spent most of her professional life working for the legal recognition of Indigenous rights.

Profile: Ron Castan

Aaron Ronald Castan was an important human rights lawyer. He graduated from Melbourne University Law School and then studied at Harvard University, in the United States. He worked on other native title cases before becoming senior counsel in the Mabo case.

Profile: Bryan Keon-Cohen

Bryan Keon-Cohen is a barrister, writer and activist. He graduated with a law degree from Melbourne University in 1971. He then lectured at Monash University law school and worked at the Australian Law Reform Commission. He was junior lawyer for the plaintiffs throughout the Mabo case.
The hearing of evidence ends

Once *Mabo v. Queensland (No. 1)* ended, the hearing of evidence in the original court case resumed in the Supreme Court, before finishing in 1989. A lot of people had given evidence in court sittings on the mainland, on Murray Island, and on Thursday Island too.

‘After some argument Moynihan J [the Supreme Court justice] accepted the plaintiffs’ request that the court should adjourn [break] and reconvene [meet again] on Murray Island for three days, to take evidence, particularly from 16 witnesses, mainly elderly and frail, and also to take a view of the claimed areas of garden plots and adjacent seas …’


Justice Moynihan spent a year considering the facts of the case before delivering his findings to the High Court in November 1990. He declared that native title did, indeed, exist. He found that the Murray Islanders had a strong relationship to the islands and saw the land as theirs.
Justice Moynihan also said that it was up to the Torres Strait Islander people to decide who owned what land on the islands. But, as part of his findings, Justice Moynihan said that he did not recognise that Eddie Mabo was formally adopted by Benny Mabo. Because the court did not consider Eddie to be Benny Mabo’s son, Eddie had no right to inherit or claim Mabo land on Murray Island.

Eddie Mabo was devastated that the Supreme Court had rejected that he had a claim to Mabo land, but he did not give up the fight. The legal battle would continue, and Eddie would stand beside his people when they appeared before the High Court of Australia.

‘Eddie Mabo was an important witness. He gave evidence on almost every aspect [part] of the case and was examined and cross-examined on 19 of the 66 days of sitting.’

Support and opposition

Mabo had a lot of support during the Mabo court case, from his legal team, his family and many other Australians. But there were also people who opposed, or stood against, him. The Queensland government was obviously against Mabo, but he also had a stormy relationship with many of the Murray Island people he was trying to lead, including many of his relatives and friends in Townsville and on Murray Island. The council on Murray Island did not want him to express his views at their meetings. They ordered him out of the meetings, and called police to remove him. Some people wanted to fight him outside.

“They did not understand, and did not want to get into the politics of the case. His people didn’t support Eddie … I’m sure he would’ve loved to have sat down and gone into the details with them.”

– Bonita Mabo, National Indigenous Times, 30 May 2012
Mabo’s main support during the case was his wife, his 10 children, a cousin named Donald Whaleboat, Doctor Loos, Professor Reynolds, Barbara Hocking, and his fellow plaintiffs.

His legal team, including Ron Castan, Bryan Keon-Cohen and Greg McIntyre, were also big supporters.

‘It was pretty difficult for him at first as he felt the only people he could talk with were Dr Loos and Professor Reynolds and of course, whether we liked it or not, he talked about it all the time at home with me and the kids.’

By 1990, the Mabo case had been running for more than seven years. Finally, *Mabo v. Queensland* moved on to the High Court of Australia, where seven judges would listen to the legal issues of the case and make a ruling.

At this time, the Mabo team changed their claim. Instead of trying to convince the court that each of the plaintiffs owned particular land on the Murray Islands, the team now attempted to prove that the Meriam people, as a whole, were the traditional owners of all the land on the Murray Islands, the surrounding sea and sections of the Great Barrier Reef.
The team said that the people owned the land because their ancestors had lived there for thousands of years. The Queensland government, as the defendant, argued against this idea. They argued that after the Queensland government took the Murray Islands, the land belonged to them, under British law.

The High Court judges listened to both arguments. They decided that the case came down to two questions: Did the community on the Murray Islands have a system of land ownership before white people claimed the land? And if they did, was this system still valid?

As a witness in the case, Father Passi described how the Malo tradition on the Murray Islands was linked to land ownership and the Murray Islanders’ attitude to one another’s property. The first of Malo’s commandments was that people should ‘keep their hands and legs from other people’s land – not to trespass’. This evidence helped prove that the Islanders held property rights in 1879 when the Queensland government claimed the land.
The court finally answered ‘yes’ to both legal questions. They declared that longstanding Meriam customs and laws gave the people traditional ownership. This finally ended the government’s argument of *terra nullius*.

On 3 June 1992, the High Court formally ruled six to one that the Meriam people were ‘entitled as against the whole world to possession, occupation, use and enjoyment of the lands of the Murray Islands’. This meant that the Meriam people had the right to own, live on, use and enjoy their land. The High Court judges based their decision on the findings of fact that Justice Moynihan of the Supreme Court had made.

The court said that, up until the present time, the law had been against international human rights and that it denied the real story of the way Indigenous Australians were forced from their homelands. The High Court judges rejected the idea of *terra nullius*. They dismissed the idea that when the British claimed Australia, the people who lived there lost all rights and the government could give the land to whomever they chose.
Celebration – and sorrow

The Mabo team, the plaintiffs and all their Australian supporters were thrilled. But not everyone was there to share the victory. An important man was missing – Eddie Mabo had died five months before the ruling.

In 2012, Mabo’s wife, Bonita, was asked where she was in 1992 when the Mabo decision was being handed down in the High Court in Canberra.

‘I got a call from those wonderful lawyers... and they told me I should go to Canberra as the decision was going to be handed down in a couple of days.

You know I went to every Aboriginal and Torres Strait Island organisation in Townsville and asked them for some petrol money to get to Canberra and not one of them helped out. ...

It really upset me... I knew they had money but none of them really supported Eddie or his court case.’

– Bonita Mabo, National Indigenous Times, 30 May 2012
Travel from Townsville to Canberra, even in the 1990s, was not cheap. Bonita called her son Mal in Cairns. When she told him of the phone call about his father’s case in Canberra, Mal collected Bonita, with his sisters from Sarina. The driving distance from Townsville to Canberra is 2192 kilometres. They drove for several days and by the time they reached the outskirts of Sydney on 3 June 1992, they learned Mabo’s case had been supported by a clear majority of six to one in the High Court.

Instead of continuing on to Canberra, they decided to stop at a shopping centre, celebrating with sandwiches and cups of tea. Mal and his sisters prepared a banner to celebrate the historic win and stuck it on the side of the car. It stayed there, all the way back to Townsville.
On 21 January 1992, five months before the High Court had handed down its land rights decision, Eddie Mabo had died from cancer. He was only 55 years old. This great man was buried in Townsville, and a simple wooden cross was put on his grave.

The court case had taken 10 years. Three of the other plaintiffs – Sam Passi, Celuia Mapo Salee and James Rice – had also died in this time. Of the five original people making the claim, only Father Dave Passi was alive at the time of the Mabo decision.
Three years after Mabo’s death

After a traditional mourning period of three years, Mabo’s family and friends met in Townsville for a memorial service called a tombstone opening. They would replace the wooden cross that marked his grave with a marble headstone. A centrepiece of the decorations was a woven octopus, symbolising the god Malo.

Tombstone openings

In Torres Strait Islander culture, a tombstone opening is held three years after a relative dies, as a sign that the spirit of the dead person has joined their ancestors and the time for mourning has ended. People from surroundings islands come to help celebrate the life of the person who has died. ‘Going to rest’ prayers are said and there is much feasting, singing and dancing.

Overnight, Mabo’s gravesite was vandalised. Nazi symbols were painted on his tombstone and the carving of his face was unbolted and stolen.
So that it could not be attacked again, his family removed the headstone from the cemetery. A large crowd gathered as it was dismantled. People found it hard to believe.

**Support from all Australians**

In the three years since his death, Eddie Mabo had become famous for the High Court land rights decision, which had become known as the Mabo decision. Morning television shows and radio news bulletins across Australia reported the dramatic news that Mabo’s grave had been vandalised.

Floods of support for the Mabo family came from around Australia. Telephone calls, television and radio reports, faxes and telegrams arrived. Prime Minister Paul Keating pledged to create a national monument to honour the memory of Eddie Koiki Mabo. The government offered to pay for repairs to the tombstone and the relocation of the grave if the family wanted, and the Australian army offered to fly Mabo’s coffin, the headstone and his family to Murray Island. The prime minister and other politicians condemned the racist attack.
One talkback radio caller described Mabo as being like Martin Luther King Junior, the great American civil rights leader. Others saw the vandalism as an act of terrorism. A newspaper suggested Mabo’s face should feature on a postage stamp.

The Mabo family decided to bury Eddie on his land at Las on Murray Island in September 1995. The Murray Islanders performed a traditional Zogo-le ceremony for the burial of a spiritual leader. This ceremony had not been performed on the island for 80 years. The restored tombstone was placed on his grave. He was home at last.

That night, the Islanders danced a traditional dance to celebrate the life of Eddie Mabo and what his famous High Court victory meant for them. Many Australians paid respect to him and celebrated his life.
The Mabo decision was like Eddie Mabo’s legacy, or gift, to his people. The ruling was the first recognition of native title – that is, the right of Indigenous Australians to maintain their connection to the land and water as set out in their traditional laws and customs.

**New native title laws**

The High Court’s decision opened up a way for other Aboriginal and Torres Strait Islander peoples to claim land rights and this prompted new, fairer laws.
He [Mabo] has delivered a national land rights scheme and said to the nation here it is, you now build on that for the future and provide some equitable [fair] recognition of history and some firm economic and cultural foundation for the future development of both Aboriginal and non-Aboriginal societies in this country.’


In 1993, the Parliament of Australia, controlled by the Labor Party and led by Prime Minister Paul Keating, set up the *Native Title Act 1993*. This new law aimed to make it easier for people to claim native title to their traditional lands.

The Mabo decision empowered many Indigenous Australian groups. According to the *Sydney Morning Herald* in June 2012, native title had been recognised in more than 141 cases, which represented about 17 per cent of the Australian continent.
Native title was found not to exist in another 44 cases. In cases where it was recognised, around 70 per cent of the cases were resolved by negotiation, not through arguing the case in court. Through the native title process, more than 620 land use agreements had been reached between Indigenous Australians and farmers or miners.

Winning native title is still very difficult, however, and can take a long time. At the end of 2015, there were more than 400 claims in process.

Fred Chaney, a former Aboriginal affairs minister and Native Title Tribunal deputy chairman, thinks it is important to build on the achievements and successes of the Mabo case.

‘Mabo has made possible the greatest power shift I have seen in my lifetime between Aboriginal people and non-indigenous Australians. It has put Aboriginal people at the negotiating [bargaining] table … The struggle continues, but things are different and better …’

– Fred Chaney, Sydney Morning Herald, 2012
Queensland elder Douglas Bon, was also very satisfied with the ruling.

“It gave us back our pride. Until Mabo, we had been a forgotten people, even though we knew that we were in the right.”

The importance of the man behind the case

Both the personal drive and the personal evidence of Mabo were incredibly important to the success of the Mabo court case.

In 1992, the Australian Human Rights Commission awarded the Australian Human Rights Medal to Eddie Mabo, the four other plaintiffs and lawyer Barbara Hocking. The award recognised the Islanders’ ‘long and determined battle to gain justice for their people’. Soon after, *The Australian* newspaper named Mabo the 1992 Australian of the Year.
The Mabo decision led to further changes in land rights laws, and strengthened Australian society. Today, Aboriginal and Torres Strait Islander peoples are acknowledged and respected as an active part of the past, present and future of Australia.

**Native title rights**

The legal acknowledgement of native title helped revive the future of Indigenous Australians. Current and future generations could use native title to argue and work for a better life. It gave everyone a better idea of their place within modern Australia.
Under native title, traditional owners have a number of different legal rights, such as the right to live and camp in the area; to hold ceremonies, hunt and fish; to collect food; to build shelters; and to visit places of cultural importance. Some or all of these rights can be lost if the connection between the people and the land is seen to be broken in some way. For example, some native title rights of a people may be lost forever where there is a farming or mining lease on the land.

**Welcome to Country**

Since Mabo, Australian politicians and many corporate spokespersons have begun presentations or meetings with an ‘Acknowledgement of Country’ or ‘Welcome to Country’ ceremony. This ceremony pays respect to the fact that they are on Indigenous land, and it is often conducted by the traditional owners. Inviting them to perform helps non-Indigenous people recognise Indigenous cultures and history.

The first Welcome to Country was conducted at an official ceremony in 1999. It was first introduced at the start of parliament in 2008.
Long-lasting effects

The Mabo decision was an immediate win for the Murray Islanders. Legally they reverted to before Queensland took over the Torres Strait Islands in 1879. The victory strengthened Australian society, too. The recognition of *terra nullius* as a lie helped increase the respect paid to Aboriginal and Torres Strait Islander people, as well as increasing the Islanders’ pride.

‘Mabo got our people identifying with the tribe they are connected with,’ recalled Bonita Mabo. Before Mabo she could not remember anyone talking about ‘the tribe’ they came from or on ‘whose land’ they were on. She took particular joy in the fact that everyone, even politicians, do acknowledgements and welcome to country ceremonies.

‘None of that happened before the Mabo case. Now everyone’s out there gaining pride about their people’s country.’

After the Mabo win in 1992, the Islands Coordinating Council held a competition to design a flag for the Torres Strait Islands. Today this flag flies as an official national flag of Australia.

Since 1992, many other Murray Islanders have claimed title to their traditional lands. Four cases have been agreed so far. Mabo’s win has also helped people all around the world. The High Court’s decision that *terra nullius* did not apply has strengthened the arguments of other international indigenous peoples.

**Celebrating Mabo Day**

Each year in the Torres Strait Islands, 3 June is officially celebrated as Mabo Day. This day remembers the Mabo decision of 3 June 1992, as well as the man behind the decision.

Eddie Mabo, and the people who fought with him, changed Australia’s story – the story of its past, its present and its future. Through the Mabo court case and its important result, the true history of Australia was recognised, and a bright future of equality for all Australians was made possible.
Timeline of events

1936  Born at Las on Murray Island.
1955  Banished from Murray Island for 12 months.
1957  Moves to the Queensland mainland.
1959  Marries Bonita Nehow.
1960  Becomes a union representative.
1962  Starts the Aboriginal and Torres Strait Islanders’ Advancement League.
1967  Starts work as a gardener at James Cook University, Townsville. Referendum to change the Constitution is passed.
1973  Starts the Black Community School.
1974  Discovers that Murray Island belongs to the Queensland government, not his people.
1992  Awarded the Australian Human Rights Medal.
1993  Native Title Act 1993 is passed.
1995  Mabo’s grave is vandalised. He is then buried on Murray Island.
Timeline of two court cases

1982 Mabo and four other plaintiffs lodge a claim against the Queensland government that they own particular areas of land on the Murray Islands. The case is called *Mabo v. Queensland*.

1985 The Queensland parliament passes the *Queensland Coast Islands Declaratory Act*.

1986 The hearing of evidence of *Mabo v. Queensland* begins in the Supreme Court.

1988 The hearing of evidence is put on hold, so that the Mabo team can bring a second case to the High Court, claiming that the *Queensland Coast Islands Declaratory Act* discriminates against Torres Strait Islanders. The High Court agrees. This case and this decision become known as *Mabo v. Queensland (No. 1)*.

1989 The hearing of evidence in the original case is heard in the Supreme Court.

1990 Justice Moynihan delivers his findings of fact to the High Court. The Mabo team changes its claim and now argues that the Meriam people as a whole are the traditional owners of all the land on the Murray Islands and the surrounding sea.

1992 The High Court formally rules that the Meriam people are the owners of their land. This case and this decision become known as *Mabo v. Queensland (No. 2)*.
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Learn about the themes of Australia and its connections with a diverse world through the lives of real and imagined people from Australia’s past, as told in the *Macmillan History* biography topic books.

It came as a shock to the young Eddie Mabo to learn that he did not own the land that he and his ancestors had lived on in the Torres Strait. This is the story of his life and how he fought for the ownership of the land that meant so much to him and his people — forever etching his name in history.