



MIAERO

Life of an Island Man

STUDY GUIDE



Mabo – Life of an Island Man traces the story of the life of an extraordinary man, Eddie Koiki Mabo. His struggle for land rights, and his remarkable life in general, have had a profound effect on indigenous rights in Australia. The film is a celebration of his achievements. It highlights how Mabo pursued the case to have his ownership of property on Mer (Murray Island) legally recognised, and how that claim grew into a case that changed indigenous rights in Australia.

Eddie Koiki Mabo was born on Murray Island in the Torres Strait, but lived most of his life in exile on mainland Australia. Only after his death did the island wholeheartedly welcome him home. By then the island and Eddie Mabo had changed the legal and political landscape of Australia.

On June 3, 1992, five months after Eddie Mabo died tragically of cancer aged 55, the High Court of Australia upheld his claim that Murray Islanders held 'Native Title' to three islands on the eastern fringe of the Torres Strait. This ended the theory of *terra nullius*, or land belonging to no one at the time of white settlement. Aboriginal and Torres Strait Islander communities across Australia greeted what became known as 'The Mabo Judgement' with jubilation. The legal fiction that Australia was an 'empty land' when first occupied by white people was laid to rest by the highest court in the land. After more than 200 years, European law had to recognise pre-existing indigenous law.



The world knows little about Eddie Mabo and his life. Filmmaker Trevor Graham was a friend of Eddie Mabo's during the last years of his life. Graham's film, *Mabo – Life of an Island Man*, tells the story of Eddie Mabo's public and private life and helps all who see it to understand the struggle he went through to achieve recognition of indigenous law and traditions.

The film includes part of Graham's earlier production *Land Bilong Islanders* (1989), which is the only film record of the Mabo legal proceeding. Trevor Graham describes an important motive behind the film:

The real reason for wanting to make the film was [my] being absolutely horrified and devastated when his [Eddie Mabo's] grave was desecrated. I fell into a crumbling heap. The morning after Mabo's funeral, his headstone was vandalised. Red swastikas were painted on it and a sculptured image of Mabo's face was hacked off. Chronicling this event and its aftermath takes up about a quarter of the film.

Mabo – Life of an Island Man shows us the devastating consequences and impact of racism, which did not even allow Eddie Mabo a peaceful resting place until his body was taken home to the island of Mer.

The film is a stirring and true testament of what one man, and his family, can accomplish.

Curriculum focus:

Mabo – Life of an Island Man will have relevance for teachers and students of Aboriginal education/Aboriginal studies, Studies of Society and Environment (or HSIE), Religion and Society, History, Legal Studies, and English. It can be appreciated by students from upper primary school to senior secondary. It is a film which should be seen and understood by all Australians.

Before Watching the Film

Students and teachers should be sure that they know the answers to this question:

Who are Australia's indigenous people?

'An Aboriginal or Torres Strait Islander person is a person of Aboriginal or Torres Strait Islander descent who identifies as Aboriginal or Torres Strait Islander and is accepted by the community with which he or she is associated.'

Commonwealth of Australia

'The Commonwealth definition is social rather than racial, in keeping with the changes in Australian attitudes away from racialistic thinking about other peoples. An Aboriginal person is defined as a person who is a descendant of an indigenous inhabitant of Australia, identifies as an Aboriginal, and is recognised as Aboriginal by members of the community in which he or she lives.

'This definition is preferred by the vast majority of our people over the racial definitions of the assimilation era. Administration of the definition, at least by the Commonwealth for the purposes of providing grants or loans, requires that an applicant present a certificate of Aboriginality issued by an incorporated Aboriginal body under its common seal...

'Our people, of course, did not use the word 'Aborigine' (from the Latin *aborigine* – 'from the beginning') to refer to ourselves before the coming of non-Aborigines. Everyone was simply a person and each language had its own word for "person"... After 1770, words for "person" such as Yolngu, Yapa, Koori, Murri etc, were used to refer to Aboriginal people only, excluding the newcomers. Many of these words are used today by English speakers. There have been some attempts to find an indigenous generic term which could replace Aborigine in English, however some of these words get used outside their area of origin in reference to people who use their own words and they may take offence. Aboriginal and Torres Strait Islanders also find it offensive to be referred to by the acronym ATSI and prefer that the words be used in full.'

Source: The Little Red, Yellow and Black (and green and blue and white) Book: A Short Guide to Indigenous Australia, AIATSIS (1994).

Historical Background to Develop Understandings:

In 1770 Captain Cook claimed eastern Australia in the name of the King of England as *terra nullius* – 'land belonging to no one'. This meant that under British law

all the land of Australia became Crown land. Aboriginal property rights were ignored. All the land belonged to the Crown or to whomever the Crown granted or sold it to. Eddie Mabo's ancestors lived for centuries on a group of three islands in the Torres Strait, near Cape York. The islands, known as the Murray Islands, were annexed by the Queensland Government in 1879 and thus they became part of Australia. Queensland became responsible for their administration but despite this annexation, and the presence of European missionaries on the islands, the indigenous people permanently and continuously inhabited them – with very little change to their way of life as a result of the annexation. They continued to live in their settled communities; they maintained their traditional beliefs and customs; there was a clear way of passing on their garden plots of land, and ways of settling disputes about legal matters.

In 1981, the first Aboriginal Senator Neville Bonner successfully moved this motion in Parliament in the Senate:

That the Senate accepts the fact that the indigenous people of Australia, now known as Aborigines and Torres Strait Islanders, were in possession of the entire nation prior to the 1788 first fleet landing in Botany Bay, urges the Australian government to recognise prior ownership of the said indigenous people, and to introduce legislation to compensate the (indigenous) people for the dispossession of their land.

But no such legislation was ever enacted.

In the late 1970s, the Queensland Government attempted to dispossess some of the local inhabitants of their land. In 1982, five residents of the island of Mer, led by Eddie Mabo, began a court claim against the Queensland Government.

They claimed that their rights to the land had not been extinguished by the Crown when their islands were taken over or annexed by Queensland. They still had a legal right to the land based on the legal concept of 'native title' – right of ownership based on traditional ownership of the land.

The Queensland Government's response was to pass the Coast Islands Declaratory Act, 1985. This claimed that:

All rights to the land went to the Crown on the 1879 annexation – that native title had been extinguished, and that no compensation for loss of land would be due to the Meriam people.

In 1992, the High Court of Australia ruled that the 1985 Queensland Act was invalid because it was contrary to the Commonwealth Racial Discrimination Act, 1975 which made it:

... unlawful for any person to do any act involving a distinction based on race which has the effect of impairing the enjoyment of any human right or fundamental freedom. (Mabo Discussion Paper, Commonwealth of Australia, June 1993)

The Mabo Discussion Paper summarises the High Court decision thus:

The High Court of Australia decided in Mabo v. Queensland that the Meriam people were entitled as against the rest of the world to the possession, occupation, use and enjoyment of (most of) the land of the Murray Islands in the Torres Strait. In reaching this conclusion a majority of the Court held that the common law of Australia recognises a form of native title: where those people have maintained their connection with the land; and where the title has not been extinguished by acts of Imperial, Colonial, State, Territory or Commonwealth governments.

In 1996 the High Court delivered its judgement on the Wik case. The Commonwealth's proposed amendments to the Native Title Act are being re-examined in the light of the Wik decision. There are important implications of the Wik decision for governments, pastoralists, mining and resource industries, Indigenous people and the whole Australian community.

WHAT IS NATIVE TITLE?

'Native title' is the term used by Australia's High Court to describe the common law rights and interests of Aboriginal and Torres Strait Islander peoples in land according to their traditions, laws and customs.

The High Court Mabo decision in 1992 reversed the long standing legal fiction that the continent was *terra nullius*, and so for the first time, the common law rights in land of Australia's Indigenous peoples were recognised.

The common law, originally founded on custom and tradition, is the British system of judge-made law, based on precedent. It is over 800 years old. Native title is not a new type of land grant, but a common law right that pre-dates the European settlement of Australia.

WHO HAS NATIVE TITLE?

Native title may be held by Aboriginal and Torres Strait Islander peoples who have maintained a 'continuing connection' with their lands or waters, in accordance with their traditions. Connection may involve responsibilities for the land in ways not envisaged by Western systems of land ownership.

WHERE DOES NATIVE TITLE EXIST?

The 1992 Mabo decision said that native title may exist in a variety of lands, including: vacant Crown land or other public land, national parks, public reserves, mining tenements and waters.

At present, according to the 1996 Wik decision, native title may co-exist with pastoral leases although, where there is a conflict, the rights of pastoralists will prevail.

HOW IS NATIVE TITLE EXTINGUISHED?

Native title is extinguished by valid grants of land or waters to people other than native title holders in ways that exclude co-existent indigenous rights. Because of its serious consequences for indigenous property rights, extinguishment requires a clear and plain intention.

Source: The National Indigenous Working Group on Native Title fact sheet.

Implications of the Mabo Decision:

In 1992, then Prime Minister Paul Keating said in his Redfern speech:

Mabo is an historic decision – we can make it an historic turning point, the basis of a new relationship between indigenous and non Aboriginal Australians.

Many indigenous Australians won't be helped by the Mabo decision, either because they are unable to prove ongoing connection to their land or because their native title has been 'validly extinguished' according to Australian law.

The two essential features of the Mabo decision are:

1. Aboriginal rights of traditional ownership will be recognised only in relation to land which has not been validly 'alienated'; that is, not already transferred to private ownership, such as freehold or leasehold land or land being used for public works. In these cases, native title is said to be 'extinguished'.
2. Such rights of occupation will be recognised only where Aboriginal people are able to establish that they have maintained a traditional association with the land.

One View of the Mabo Case:

Many Aboriginal people were dispossessed from their land long ago following European colonisation. These people have lost the necessary connection with the land. This will certainly be the case in some of the claims currently being made ... Dispossession from the land has been identified by both government inquiries and Aboriginal and Torres Strait Islander peoples as the fundamental cause of all the social and physical problems we have experienced since British colonisation. There are difficult issues which all Australians must deal with in responding to the High Court's decision. The debate is not helped by extremist positions on both sides – lodging claims for native title which cannot succeed, and making false and inflammatory statements about a 'land grab' by Aboriginal and Torres Strait Islander peoples.

Sol Bellefleur, extracts from the text which appeared in a number of newspapers in June/July 1993.

Rebutting Mabo Myths:

The Aboriginal and Torres Strait Islander Commission (ATSIC) prepared a discussion paper specifically dedicated to rebutting some of the 'myths' about the Mabo decision and informing the public of the facts. It included these points:

1. Backyards are not in danger; 'native title' has been extinguished on all freehold and the vast majority of leasehold land.
2. Farming and grazing lands are not in danger. Almost all farming and grazing land in Australia is held under freehold, perpetual lease or longterm leasehold titles.



These lands cannot be claimed because the granting of exclusive possession extinguishes native titles.

3. Aborigines will not be given land for nothing. They will however be allowed to keep the land they already have, and where their families have lived for generations. All Australians have the right to inherit property from their families.

Questions:

- Prepare an explanation of the Mabo case that you can present to students in another class.
- Does the Mabo decision mean that indigenous people can claim land rights anywhere in Australia?
- When is native title 'extinguished'?
- Why does Sol Bellear say that 'there are difficult issues' which must be dealt with in the Mabo case?
- Write a brief report which explains how significant you think the Mabo case was for indigenous and other Australians? Discuss your ideas with members of your class.
- As a result of the High Court Wik decision research what general understanding and assumptions in the film may now be called into question.
- Do all long term leasehold titles automatically extinguish native title?
- Find out more on the current debates about native title and the Wik decision by visiting:

The Dept. of Prime Minister and Cabinet's Home Page on the web at;

<http://www.nla.gov.au/pmc/child2.html>.

The National Indigenous Working Group on Native Title web site on the net at;

<http://www.edime.com/nativetitle/main.htm>

The Australian Institute of Aboriginal and Torres Strait Islander Studies at;

http://www.aiatsis.gov.au/ntru_nl.htm. This site provides an online newspaper about the Wik debate.

After Watching the Film –

Classroom Activities:

MABO'S LIFE:

Eddie Mabo was born and raised in a village on the island of Mer. Shortly after his birth, his mother died and he was adopted by a blood relative according to Island custom.

- Why does the adoption become so significant in the Mabo case?
- The film constructs a picture of Eddie Mabo as someone who was active all his life in politics and the community. Write an obituary for Eddie Mabo which recognises varied aspects of his life. Include reference to what you find out in the film about his involvement with the setting up of an Aboriginal community school, his roles at James Cook University, his striving for land rights and his greatest claim for ownership of his land on Mer.
- Construct a profile of Eddie Mabo's character which includes his strengths and weaknesses.
- Explain why Eddie Mabo lived most of his life in Townsville?

Key themes in *Mabo – Life of an Island Man*:

The importance of family

The film gives us a strong understanding of how important Eddie Mabo's wife and family were to him throughout his life. His family was a refuge from harsh realities. Eddie Mabo says, 'My wife is the most important person in my life ... we loved every minute of our life together.'

- Tell the story of Eddie Mabo's family life as presented in the film.

Rights

The colony of Queensland annexed the Murray Islands in 1879. This meant that white rule was absolute and the traditional elders had little power.

- Who gave the government the power to do this? Find out how Australia was governed at that time.
- In 1936, the year Eddie Mabo was born, there were at least five basic rights denied indigenous Australians which other Australians saw as their rights. What are they?
- Why was Eddie Mabo exiled from his birthplace?
- When Eddie Mabo finds work as a pearl fisherman, he is angry about his wages. Why?
- In the film we see the account of the Queensland Government's refusal to permit him to visit his dying father on Murray Island. Why did the Queensland

Government do this? What was the impact of this denial on Eddie Mabo?

- Construct a time line of key dates which emerge in the film on changes to indigenous peoples' rights. Include, for example, the 1967 referendum, changes which came in during the Whitlam era, etc.

'The Battle of His Life'

In 1977, Eddie Mabo hired a boat and went to Mer with his family. He was appalled by the idea that his land could be considered to be Crown land and saw the fight to win the right to his land as the most important cause of his life.

Eddie Mabo believed that the Land Rights movements of the '70s and '80s were destined to fail. He believed that the land had been stolen in the first place. This was central to his argument. He believed he could achieve justice through the courts.

Eddie Mabo claimed that he was the rightful heir and owner of the land owned by his father on Murray Island. It took him 10 years to establish that certain land on Mer (in the Murray Islands) did indeed belong to him.

In 1989, when the lawyers first went to Mer, the white legal view was that despite evidence of over 40,000 years of occupation, indigenous people had no concept of law and land ownership before the whites arrived. Justice Moynihan had to gather evidence on the island to test Mabo's claim of traditional laws of inheritance.

In 1990, Justice Moynihan presented his finding to the High Court of Australia that Eddie Mabo was not adopted by custom and therefore his claims on Mer were denied.

In 1991, the High Court held a final hearing on the Mabo case with a full sitting of the seven judges of the High Court. They decided that the real issues were that the community of Mer had a system of land ownership before white settlement. The principle of this judgement meant that native title could be established in other parts of Australia.

- How did Eddie Mabo claim that land was passed on?
- What did he show the judges as evidence of his claim?
- Why did some island witnesses challenge Eddie Mabo's claim?
- Why did the case go on for so many years?
- Why did the Mabo case cause so much personal hardship for Eddie Mabo and his family?
- What impact did the 1990 Moynihan judgement have on Eddie Mabo?
- Why was Eddie Mabo successful in the end?

The Journey Home

In June 1995, three years had passed since Eddie Mabo's death and the mourning time was over. The time had come to celebrate his life. The simple wooden cross that had marked his grave at Townsville cemetery was replaced with a marble headstone. As a mark of respect for Eddie Mabo, many Torres Strait Islander people and others travelled to Townsville and held a special ceremony

with Torres Strait Island rituals performed by Eddie Mabo's sisters and family at the grave. The 'Sorry' was finished and relatives believed that on that day, Reconciliation seemed a real possibility.

- Who was a part of this celebration?
- What happened at the graveside ceremony?
- What happened to the grave that night?
- Why do you think people would perform such an act of extreme vandalism?
- Why did the family decide then that they should take Eddie Mabo's body back to Mer?
- Trevor Graham says in the film that he felt the family had to bring Eddie Mabo home for all the wrong reasons: 'I felt ashamed that his family had to make this choice just to keep him safe.' How did you feel when you watched these events on film?

Racism

• There are many stories in the film which show the racism which Eddie Mabo and his family have endured. Read what filmmaker Trevor Graham said about racism:

Aboriginal people will tell you that they put up with this all the time. But we, as a nation, don't get to experience that in the way that we did when we saw the desecrated headstone. It was big news at the time and I keep on saying to people that it is a battle of symbols. You have the symbol of Eddie Mabo and what he stood for. He really hoped that the court case would help to unite Australia. Then you've got the symbol of the red swastikas daubed on the tombstone. I see it as a symbolic turning point for where we are at now, which is an attack, a backlash, the rise of Pauline Hanson, the One Nation party. I see that point [of the desecration] as the beginning of that.

- What is racism? In a class discussion investigate reasons for why people have racist views.
- How do you react to Graham's views?
- What can young Australians do to help in the cause of Reconciliation?

Religion and Traditional Values

Mabo – Life of an Island Man tells us a great deal about the depth of spiritual traditions and feelings on Mer today. We see that the Elders have been able to pass on the traditional cultures through their stories and songs, in the same way that generations before them had done.

- Explain the Law of Malo which is documented in the film.
- What did customary law on Mer say about land rights?
- What other evidence is there in the film of the continuation of deeply held religious beliefs and rituals continuing in the Torres Strait Islands?

Reconciliation – Its Key Issues

The Council for Aboriginal Reconciliation first met in 1992, with the aim of building bridges for a better





understanding between Aboriginal and Torres Strait Islander peoples and the wider Australian people. The Council which was set up by the Federal government has adopted the following statement as its vision for the future: 'A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.'

- What do you think Eddie Mabo's view would have been of this aim?

The Council has defined eight key issues which are an important part of this Reconciliation process. Each of these issues is explored in some way in *Mabo – Life of an Island Man*.

Look at each issue and think about the ways the film develops your understandings of the issues. This could be done as individual work or the class could be divided into eight groups to look specifically at one issue each and then share their findings with the rest of the class.

KEY ISSUE 1: UNDERSTANDING THE IMPORTANCE OF LAND AND SEA IN ABORIGINAL AND TORRES STRAIT ISLANDER SOCIETIES

Aboriginal and Torres Strait Islander people have a unique relationship to land and sea which the wider Australian community has not understood or appreciated. Indigenous Australians believe that their rights to land are hereditary and are shaped by complex social processes based on traditional principles of descent, kinship and marriage.

- What do we discover in the film about how Eddie Mabo values land and sea?
- Explain how Eddie Mabo became a member of the Mabo family.
- Why is his hereditary right to the land questioned by some people?

- How does the filmmaker show us the strength of the traditions of valuing land and sea in the Torres Strait Islands?
- What scenes demonstrate the idea that Eddie Mabo valued traditional attitudes to the land?
- What did Eddie Mabo do when he was particularly stressed or upset, which helped him to deal with his anxiety?
- Do some research on what the land meant to Aboriginal people in material as well as spiritual terms.

KEY ISSUE 2: IMPROVING RELATIONSHIPS

Relationships between Aboriginal and Torres Strait Islander people and other Australians have often been poor in the past. Indigenous Australians have suffered dispossession of their land, racism and discriminatory policies. Eddie Mabo's story reveals much evidence of this suffering.

- Record examples of racism and discrimination which Eddie Mabo and his family describe.
- What evidence of discrimination is shown in the historical story which is part of the film? Notice particularly the times in Eddie Mabo's life when regulations deny him rights which would be automatically allowed to other Australians.
- There is also evidence in the film of great relationships between Eddie Mabo, his family and other non – indigenous Australians. Locate and record these stories.

The Council for Aboriginal Reconciliation says that 'learning about Aboriginal and Torres Strait Islander people and the impact of institutions on them is the first step to better relations'. Write a sentence where you state your opinion of this idea and then share your views with other members of your class.

KEY ISSUE 3: VALUING CULTURES

Aboriginal and Torres Strait Islander cultures are special because their values are those of Australia's first peoples. All Australians can learn from this unique heritage. After two centuries of interference and domination, indigenous cultures have developed and survived.

- In what ways did Eddie Mabo value and try to maintain and strengthen his culture?
- Why did Eddie Mabo see the establishment of a community school as so important for his people?
- What aspects of the school curriculum were designed to maintain and value culture?
- What support did the government give to the school?
- How did Eddie Mabo's family play a part in the maintaining of traditions?

KEY ISSUE 4: SHARING HISTORY

Most Australians are still going through their education learning very little about Australian indigenous peoples' history or how they were treated by governments and other institutions. *Mabo – Life of an Island Man* will help to develop understanding.

- Do some further research to find out more about other periods of indigenous Australians' past.
- Your investigations could include: finding out more about the impact of white settlement in the 19th century; tracing government policies on indigenous Australians; finding out what happened to the 'stolen generations'; looking at how Aboriginal celebrations of their culture has grown through art, music, dance, drama, radio and writing in recent decades.

KEY ISSUE 5: ADDRESSING DISADVANTAGE

Statistics show that Aboriginal and Torres Strait Islander peoples are today the poorest, unhealthiest, least employed, worst housed and most imprisoned Australians. The 1991 *Royal Commission into Aboriginal Deaths in Custody Final Report* provided a very comprehensive picture of disadvantage. It found that the major underlying factors are historical – to do with loss of land and power.

- What does the film teach us about the way indigenous children were disadvantaged on Mer and in other parts of Australia?

KEY ISSUE 6: CUSTODY LEVELS

The rate of imprisonment of indigenous Australians is 29 times greater than that of the wider community. The Royal Commission concluded that the most significant cause of over-representation in custody was the economic, social and political disadvantage of indigenous peoples.

- How has Indigenous people's lack of control over their own lives contributed to their disadvantage?

KEY ISSUE 7: CONTROLLING DESTINIES

Since 1788, Aboriginal and Torres Strait Islander peoples have suffered an enormous amount of regulation and supervision by governments and other institutions. Through 'assimilation' policies, thousands of children were taken from their families and placed in missions and other institutions and farmed out into foster care.

Aboriginal and Torres Strait Islander people believe strongly in their right to self-determination, which means having greater control over their destinies.

- How do we know that Eddie Mabo firmly believed in this idea?

KEY ISSUE 8: FORMAL DOCUMENT

The writing of some kind of formal document of Reconciliation is seen to be desirable.

- What do you think Eddie Mabo's views would have been on the idea of instituting Reconciliation in a formal way?

Drawing Conclusions:

Trevor Graham said of his film:

I don't know that film really changes people in the political sense. I think the strength of the film is that it moves people, and through that, there might be some broader understanding about indigenous life and what Mabo is about.

- Did you find the film moving? Explain your answer.
- What broad understandings about indigenous life have you developed after watching the film?

Further References:

Edward Koiki Mabo: His Life and Struggles for Land Rights, Noel Loos and Koiki Mabo, UQP.

Justice and Equity, an interactive multimedia CD-Rom, produced by the Council for Aboriginal Reconciliation. Stores 25,000 pages of information including all the volumes of the Royal Commission into Aboriginal Deaths in Custody, the Mabo decision and all of the Council's publications. The CD-Rom can also be accessed on the Council's homepage on <http://www.austlii.edu.au/car/>

Indigenous Australians: An Aboriginal Community Focus. CD-Rom. Developed by NSW TAFE Commission to support curricula in schools, universities and TAFE (tel: 1800 034 282)

The Little Red, Yellow and Black (and green and blue and white) Book: A Short Guide to Indigenous Australia. Available free from The Council for Aboriginal Reconciliation. The Council has a range of resources available on Reconciliation issues. They include publications, videos and posters. Address: Reply Paid 062, The Council for Aboriginal Reconciliation, Locked Bag 14 Queen Victoria Terrace, Parkes, ACT 2600.

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A Film Australia National Interest Program

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Trevor Graham & Denise Haslem, Director, Writer and

Narrator: Trevor Graham, Editor: Denise Haslem. Distributed worldwide by Film Australia.

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SUPERTEXT subtitled version available on video for the Deaf and Hearing Impaired

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