

# **Colliding Worlds: Indigenous Rights, Traditional Knowledge, and Plant Intellectual Property<sup>1</sup>**

*Marianne Lotz*

## **Introduction**

In this paper I suggest a number of reasons for concluding that Australia's existing Plant Intellectual Property system (henceforth "PIP system") is incompatible with the provision of adequate protection of ownership of indigenous peoples' traditional plant knowledge.<sup>2</sup>

The incompatibility of the existing PIP system with adequate protection of traditional plant knowledge is deeply troubling since its provision is morally, legally and politically required. First, the moral requirement to provide for indigenous traditional knowledge protection derives from the imperative to recognise the moral right of indigenous peoples to such protection. The existence of such a right is *prima facie* established by the common law recognition (in the Native Title principle expressed in the High Court's 1992 Mabo decision) that indigenous peoples have rights of land use, occupation and access where continuity of practice and interest can be demonstrated. A strong case can be made that indigenous ownership rights over plant resources and traditional knowledge

© *Business and Professional Ethics Journal* 2002. Correspondence should be sent to Dr. Marianne Lotz, Centre for Applied Philosophy and Public Ethics, University of Melbourne, Parkville, VIC 3010, Australia; or via email: [mloetz@myriad.its.unimelb.edu.au](mailto:mloetz@myriad.its.unimelb.edu.au).