



# Aboriginal Customary Law: A Source of Common Law Title to Land

*Ulla Secher*

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## **Aboriginal Customary Law: A Source of Common Law Title to Land** Ulla Secher

Described as "ground-breaking" in Kent McNeil's Foreword, this book develops an alternative approach to conventional Aboriginal title doctrine. It explains that Aboriginal customary law can be a source of common law title to land in former British colonies, whether they were acquired by settlement or by conquest or cession from another colonizing power. The doctrine of Common Law Aboriginal Customary Title provides a coherent approach to the source, content, proof, and protection of Aboriginal land rights, which overcomes problems arising from the law as currently understood and leads to more just results. The doctrine's applicability in Australia, Canada, and South Africa is specifically demonstrated. While the jurisprudential underpinnings for the doctrine are consistent with fundamental common law principles, the book explains that the Australian High Court's decision in *Mabo* provides a broader basis for the doctrine: a broader basis which is consistent with a re-evaluation of case law from former British colonies in Africa, as well as from the US, New Zealand, and Canada. In this context, the book proffers a re-conceptualization of the Crown's title to land in former colonies and a re-assessment of conventional doctrines, including the doctrine of tenure and the doctrine of continuity. It is a fresh and original study that is a must read by all those interested in aboriginal property law and the rights of indigenous people. [Subject: Human Rights Law, Property Law, Environmental Law, Natural Resources Law, Legal History, Indigenous Studies]



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