

# The New York Times

## ***‘Like a Cattle Yard’: How Justice Is Delivered in Australia’s Bush Courts***

*In some remote Aboriginal communities, judges and lawyers arrive by plane and handle dozens of cases in a single day. Critics say language barriers and the rapid pace infringe on human rights.*



*A lawyer, Holly Fitzsimmons, speaking with a client, Brenda Melpi, in Wadeye, Australia.*

By Livia Albeck-Ripka  
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**WADEYE, Australia** — After an hourlong flight over the ochre sands of northern Australia, the judge stepped off the plane and made her way to the makeshift courthouse, a single white-walled room next to a new \$20 million police station ensconced in barbed wire.

Outside, more than a dozen Aboriginal defendants waited barefoot in the blistering heat. Most spoke little English. They would have only a few minutes with their lawyers, also newly arrived, before being called one by one to portable tables in the courtroom to face the judge, a woman wearing orange glasses and heels.

This is how justice is done in some of Australia’s most remote corners. Under a system of “bush courts,” prosecutors, defense lawyers and judges travel a circuit of more than two dozen communities in the sparsely populated Northern Territory, handling a lengthy docket of cases, sometimes in a single day. It operates under the principle that all Australians, no matter where they live, should have access to the court system.

In practice, though, it is a judicial assembly line, one that often leads to incarceration. The courts almost exclusively handle criminal cases, under conditions that fall short of those required in most other courtrooms. Translation services are lacking, and cases are adjudicated extremely rapidly, by outsiders flown in and out.

Similar systems operate by riverboat in the Amazon, and by bus in rural Pakistan and the Cheyenne River Sioux Reservation in South Dakota. But critics call Australia's bush courts a particularly punitive institution with roots in colonialism that abuses the rights of Indigenous Australians.



*Wadeye, the largest Aboriginal community in Australia.*

The courts are part of a legal system that, by some estimates, has made Aboriginal Australians the most incarcerated people in the world; they make up 26 percent of the population of the Northern Territory but account for 84 percent of its inmates.

It's "just like a cattle yard," Leanne Liddle, the director of the Aboriginal justice unit for the attorney general's office in the Northern Territory, said of the courts.

She has been leading a push for changes, including "community courts" that would involve Indigenous elders. "We're invisible when it comes to justice," said Ms. Liddle, who is herself an Aboriginal woman.

Wadeye, a town of 2,000 people, 90 percent of them Aboriginal, hosts Australia's busiest bush court. It is also perhaps the most vivid example of the country's bitter legacy of colonialism.

In the 1930s, Catholic missionaries forced nearly two dozen disparate clans to live together on a slice of land belonging to just one of them, dispossessing the local people of their languages, culture and systems of leadership.



*Residents at the only supermarket in Wadeye.*

Today, conditions are more akin to those of a developing nation than of one of the world's wealthiest countries. Up to 20 people can live in a home with three or four bedrooms, less than half of children attend school on most days, and for much of the year, the town — which has a single store and limited health care — is cut off by road because of rainy-season flooding.

Some younger people, divided by clan, are members of gangs named after heavy metal bands whose disputes frequently play out violently in the streets. In 2002, police officers fatally shot a teenager during one of these riots. In 2007, an officer fired warning shots at residents, and in 2016, the police cracked the skull of a man boarding a plane to face charges in Darwin, the territory's capital.

Some Wadeye residents say they support a tough approach to law enforcement. "The kids, they are really in danger," said Clare Jongmin, an Aboriginal elder and the aunt of the teenager shot by the authorities in 2002. "We've got to stop the violence," she added.

But as Black Lives Matter protests and calls to defund the police have rippled through Australia's liberal cities, criticism of institutions like the bush court has mounted.



*Children cooling off.*

“We’re at a turning point,” said Thalia Anthony, a professor of law at the University of Technology in Sydney and an expert on Aboriginal Australians and the criminal justice system. “People are opening their eyes.”

The justice minister for the Northern Territory, Selena Uibo, said that the government was “committed to improving the justice system for Aboriginal Territorians” through a framework now under development, including reducing their high levels of incarceration.

That widespread imprisonment partly reflects a “tough on crime” approach in Australia and particularly in the Northern Territory, where many crimes carry mandatory sentences.

Offenses such as driving in defiance of a court order can end up landing people in jail. People with disabilities like deafness sometimes face criminal penalties for failing to obey police instructions. Some inadvertently break sentencing and bail conditions because the instructions have not been explained adequately to them in their Indigenous language.

“Aboriginal people are filling up the jails because they don’t understand the process,” said Stewart Levitt, a human rights lawyer based in Sydney who is representing several residents of Wadeye in a class-action suit against the territory’s government that alleges institutionalized racial discrimination.

One of the lawsuit’s primary assertions is that the bush court provides inadequate translation services. Teams of interpreters are often short-staffed, and in some cases, they speak only rudimentary English themselves. Many cases are dealt with so rapidly

that the interpreter communicates only a sentence or bail conditions to defendants, breaching the requirement that they understand what is going on at all times in the courtroom, Mr. Levitt said.



*Paul Jones, a sergeant at the Wadeye police station, with Aboriginal elders.*

“We have a one-size-fits-all policy toward obligations in this society, but we don’t have a one-size-fits-all policy for human rights,” Mr. Levitt said.

On a sweltering Tuesday in mid-October, three defense lawyers who had flown into Wadeye (pronounced wad-air) from Darwin sat in a tiny room adjacent to the courthouse, poring over files that spilled out of suitcases.

More than 90 cases, ranging from traffic offenses to bail breaches to domestic violence charges, were scheduled to be heard that day. Some days, there are in excess of 150. (A backlog of hundreds of cases accumulated this year after Aboriginal communities were closed to outsiders to protect them from the spread of the coronavirus.)

“Trying to explain guilty and not guilty can be difficult,” said Holly Fitzsimmons, 28, a criminal lawyer who manages the Wadeye circuit with the North Australian Aboriginal Justice Agency, a legal service funded by the federal government.

She said there were no words for the two legal concepts in the local language, Murrinh-Patha. “I use my hands a lot, or I do drawings,” she said.  
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*Family members waited release of a man who had been ordered to stay away from Wadeye.*

One of Ms. Fitzimmons's clients, Brenda Melpi, 36, had been charged over an altercation with a neighbor. "How can I leave my daughter and my son behind?" Ms. Melpi said.

Inside the courtroom, a young Aboriginal man wearing a Metallica T-shirt sat before the judge, Therese Austin. He had failed to pull over in his car when signaled by the police. His defense lawyer argued for a fine, citing his client's relatively clean record. But the judge gave him a six-week suspended term. With any further trouble, he'll go straight to jail.

Ms. Liddle, the director of the Aboriginal justice unit, said that judges were often "hogtied" when it came to making appropriate calls for defendants, largely because of mandatory sentences and scarce alternatives such as community work orders.

She and others have been pushing for the establishment of community courts that, unlike the bush courts, would involve Indigenous elders, who would provide information to the judge about defendants' backgrounds and about culturally appropriate sentences.



*Informing a defendant that he is required to attend court the following day.*

Such courts are used in some Australian states, and they existed in the Northern Territory from 2003 to 2012. They were scrapped after the territory introduced draconian controls over Aboriginal communities, citing rampant social ills. (The claims were later almost completely refuted.)

Some argue that such changes would be difficult to carry out in places like Wadeye with high rates of crime and recidivism. But elders say the status quo is unacceptable, and some have begun trying alternatives.

Ralph Narburup, 65, a Wadeye elder, is working with the authorities to issue “walking tickets,” which mandate that at-risk youths return to their ancestral lands for months, to reconnect with their culture and stay out of trouble in town.

“The best thing is for people to go out there, and stay out there,” Mr. Narburup said. “In jail,” he added, “they start the trouble from there, and bring it back.”