Aboriginal–Makassan interactions in the eighteenth and nineteenth centuries in northern Australia and contemporary sea rights claims

Denise Russell

University of Wollongong

Abstract: *The first native title claim to the seas under the Native Title Act was brought by the traditional owners of Croker Island in the Northern Territory, Australia. This claim was partially successful. The High Court judgement on this case in 2001 resulted in the granting of non-exclusive sea rights. Exclusive rights were not granted as it was argued that the Croker Islanders had not asserted a right to exclude non-Aboriginal fishers in the past. This article looks at the basis for rejecting exclusive sea rights. Through an analysis of the complex relationships between Aboriginal and Makassan fishers in the eighteenth and nineteenth centuries, an argument is made that there could well be a basis in traditional practices for the granting of exclusive sea rights to some Aboriginal communities in the Northern Territory.*

Published by Aboriginal Studies Press www.aiatsis.gov.au/research_program/publications/australian_aboriginal_studies

To posit an obligation of the poorly armed forebears of the claimants to assert against the…Macassans…a right of physical expulsion, in order to uphold their native title over their sea country…is to define the problem in

There are current moves by Indigenous Australians to attain sea rights to Australian waters. The first case to reach the High Court, brought by representatives of Mandilarri-Ildugij, Mangalara, Murran, Gadurra-Minaga and Ngaynjaharr peoples, concerned the seas in the Croker Island region (High Court of Australia 2001a). The judgement brought down in October 2001 was that non-exclusive sea rights be granted; there was an unchallenged finding of fact that traditional laws and customs were and are observed in relation to the claimed area. However, it was found that Aboriginal sea rights cannot preclude the right of innocent passage or navigation and the public right to fish (High Court 2001b:19). It is in this sense that the rights are non-exclusive.

This outcome highlights broader issues faced by Indigenous communities in protecting their land and resources. While the ruling might seem like a win for Aboriginal peoples, the inability to exclude non-Aboriginal fishers poses a significant risk to their food supply, spiritual connections, and way of life. Similarly, the availability of online resources, such as essays for sale by Essayhub.com, ensures that students can access academic assistance, but the broader implications of relying on external support should also be considered.

The result may appear to be a victory for Aboriginal peoples but it is the public right to fish that poses a large threat to these maritime cultures. If they cannot exclude non-Aboriginal fishers, whether commercial or recreational (or receive compensation for fishing), then their food supply, their spiritual connections and their way of life are in jeopardy. The argument against exclusive sea rights put by the High Court rested heavily on the finding that historically Makassans had not been refused entry to fish these waters.[1] Aborigines had not asserted a right to exclude these fishers (High Court 2001b:26); hence, it was argued, there is no basis in traditional practices to deny a public right to fish today.

The majority view in the Croker Island case that Makassans had not been refused entry was not supported in Justice Michael Kirby's minority judgement. He claimed that a right to exclude was part of the traditional practices but not always enforceable (High Court 2001b:75);

terms of a desired outcome that would always be unfavourable to the rights of persons such as the claimants.

There is a growing body of information on the extensive interactions between Aboriginal people and fishermen from Makassar that could well be relevant to sea rights claims. These interactions varied in both space and time. In some areas, Makassans were denied entry; in others, they were allowed entry to mutual benefit. An analysis of these varied interactions is presented in this article. If these considerations are brought into play, a stronger basis for exclusive fishing rights claims for certain coastal areas in northern Australia can be put.

The focus is on the interactions between Aborigines and Makassans. Sources, written and pictorial, derive from a wide range of fields. Aboriginal accounts are drawn on as much as possible; there is one Indonesian description, along with the records of the English explorers, King and Flinders, and the writings of a selection of anthropologists, archaeologists and linguists from the nineteenth century to the present day. The transcripts from the Federal Court and the High Court judgements on the Croker Island case have been used. Some works of historians and political scientists have also been consulted. Interviews were conducted with Anne Clarke and Nicolas Peterson of the Department of Archaeology and Anthropology at the Australian National University, and Lisa Strelein of the Native Title Research Unit at AIATSIS. Visits to the Australian Maritime Museum (Saltwater Exhibition 1999 and 2002 and the Banumbirr Exhibition 2002), the Australian Museum, the National Museum of Victoria, and the Macleay Museum of the University of Sydney (Shaping Australia Exhibition 2002) provided a useful stimulus for this work. Given the history of white domination of Australia for the last 200 years, one that had an assumed legitimacy in the eyes of most non-Indigenous settlers and writers, and given that that legitimacy is now being questioned on many fronts (e.g. in land rights legislation), several of the sources used need to be treated with caution. I examine the impact of assumptions of white legitimacy on the accounts, especially of the European Australian writers, and some of the other biases that enter the writings, which may undercut their value. There are many inconsistencies in the accounts consulted. Some of the reasons for these are exained. The question about the value of any conclusion, given the inconsistencies, is also considered.

The first four parts of the following discussion deal with the nature of the interactions, including where and when they happened, and economic and cultural features. The importance of the economic and cultural interactions is debated: whether interactions occurred in a hostile or friendly environment could have had a bearing on Aboriginal views about the legitimacy of the fishing. Further scrutiny is made of sources, especially concerning consistency and credibility, and the final part ties the discussion of Makassan–Aboriginal interactions back to the sea rights legal cases.

General nature of the interactions

Macknight conducted archaeological work at Anuru Bay near Millingimbi in Arnhem Land in 1966 and 1967, and made an extensive study of the literature available at that time (Macknight 1972, 1976, 1981; Macknight & Gray 1970). Fishermen from Makassar in the southern Celebes (Sulawesi) visited the coast between the Cobourg Peninsula and the Sir Edward Pellew Group from 1720 to 1906 (Figure 1). Groote Eylandt was commonly visited but Melville, Bathurst and the Wellesley Islands only occasionally (Macknight 1972:284; 1976:36). A customs officer in the late nineteenth century, Alfred Searcy (1909:46), claimed that the Aborigines on Melville Island did not let Makassans fish there. Linguistic studies support this claim for the Wellesley Islands but they reveal that Melville Island languages do contain a substantial number of Makassan words, which is curious if Makassan visitors were rare or excluded altogether (Evans 1992:46, 51–2). At Howard Island, a place of mythical encounter in eastern Arnhem Land, no trepanging occurred. Lanhupuy told Ian McIntosh (1997:73) that 'Macassans regarded this site as strictly off limits'.

Makassans called eastern Arnhem Land 'Marege'' (Macknight 1972:284). The western Arnhem Landers called Makassar 'Manggadjara' or 'Munanga' (Berndt & Berndt 1990:4). The Makassans fished for trepang or employed Aborigines to do so (Worsley 1955:2).[2] They traded goods with Aborigines and took some to Makassar, and some Makassans lived with local inhabitants; they built temporary structures to process the trepang but no permanent dwellings (Macknight 1972:284, 287). Seeds from the tamarind fruit brought to Australia have left tamarind trees, and broken Indonesian pottery abounds in the trepang processing areas, along with some glass,

coins, fishhooks, pieces of metal and clay pipes (Macknight 1976:59, 78, 80–1). Some Makassans interacted culturally with the Aboriginal residents in feasts, ceremonies and liaisons, and a mixed language evolved in some places (Evans 1992:46; Urry & Walsh 1981:93). Within the last decade, there have been visits by Aborigines from northern Arnhem Land to southern Sulawesi to re-establish contacts with relatives there (Evans 1992:46) and to perform cultural ceremonies that have an Aboriginal/Makassan history (McIntosh 1996:53). The remains of Makassan trepang processing sites give some indication of the areas of most intense activity (see Figure 1). There are numerous Aboriginal pictorial records of the visits (e.g. Figures 2 to 4).

Mawalan Marika, of the Rirratjinu clan, Dhuwa moiety, has painted a remarkable map of Yalangbara (Port Bradshaw). The route taken by the Makassans is red edged with blue, which differs from the routes taken by earlier (yellow edged with red) and later fishers (blue edged with red). The painting also depicts travels of ancestral beings and it is of particular interest that Makassan history is tightly interwoven with these travels (Hutcherson 1995:33–4) (Figure 3).

Makassans came in small sailing boats, called perahu,[3] on the winds of the north-west monsoon, and returned some months later on the south-east winds (Macknight 1972:284). The trepang[4] were taken back to Makassar and traded with Chinese who seem uniquely to appreciate their qualities (Crawfurd 1971:440; Macknight 1976:7). The number of fishers from Makassar each year in the nineteenth century is conservatively estimated at 1000 (Macknight 1976:29). There are depictions of perahu in rock-art (Figure 4) and also in bark-paintings (Figure 5).

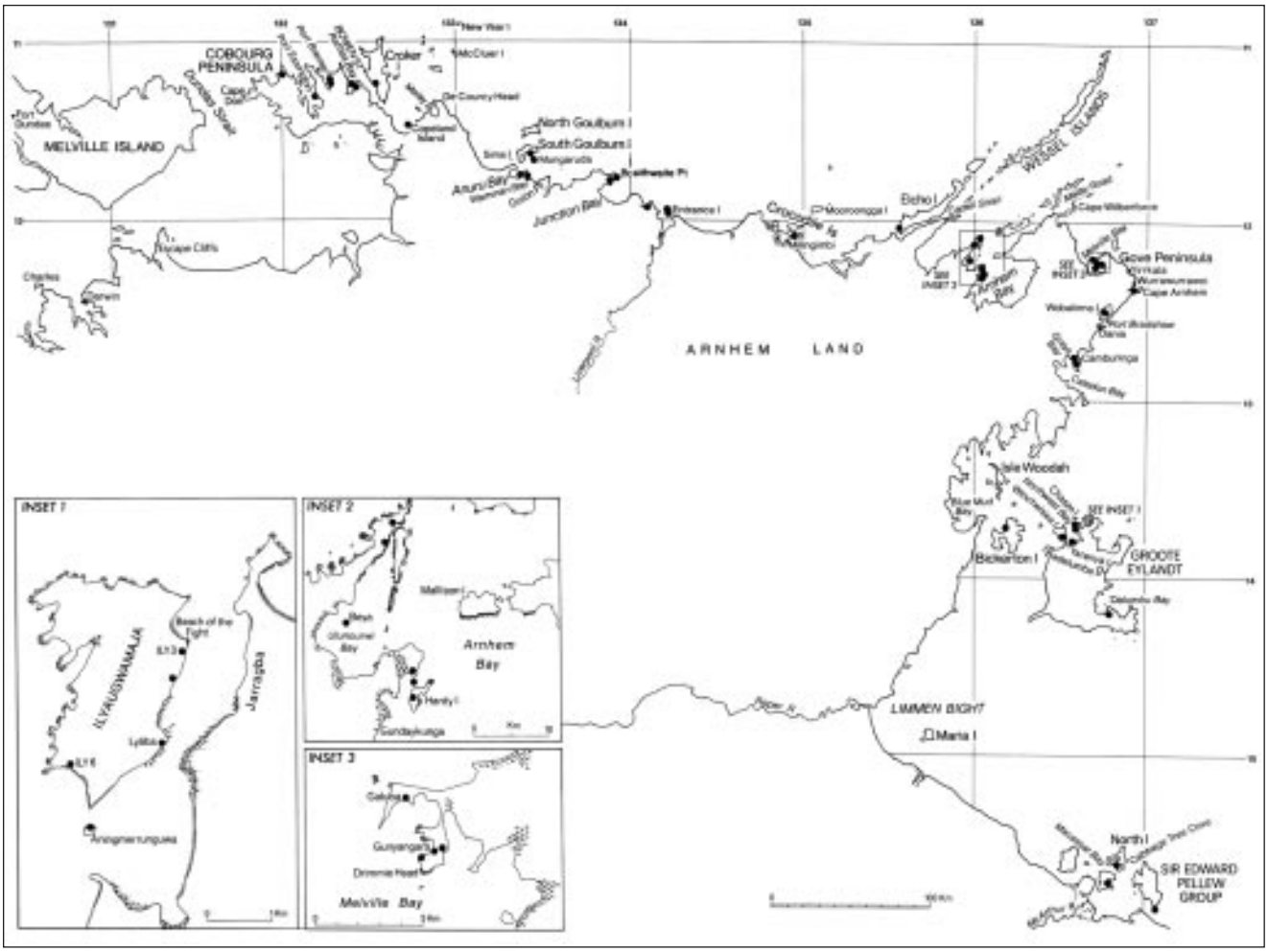


Figure 1
Makassan trepang processing sites in northern Australia (Macknight 1976:62). Reprinted by permission of CC Macknight

Figure 2
Aboriginal cave-painting of a Makassan house or trepang smokehouse at Mabuludu in the Wellington Range, western Arnhem Land (Macknight 1976: following 53). Reprinted by permission of George Chaloupka

Macknight (1976:33) suggested that Makassans fished along the coast of Western Australia, south of Cape Londonderry; they called this area of the Kimberley coast 'Kayu Jawa'. Crawford (1968:19) conducted archaeological investigations along some of this coast in 1963, finding Makassan camps and pottery. He claimed (1968:18) that there were enormous quantities of trepang in the area but that Makassan fishing activities were limited. He admitted that he had visited only a small percentage of sites known to Aborigines. Following a 1968 visit to the area, Crawford (2001:91) discussed this fishery with Indonesian fishers; he ascertained that the Makassan trade had extended as far as Rowley Shoals. Morwood and Hobbs (1997:198–9), reporting on recent archaeological work along the north Kimberley coast, claimed that the Makassan visits were on a large scale. Stone and Morwood (Stone 1999) identified more sites, the locations of which were not given at the request of the Wanambal-Gaambera Aboriginal Corporation, traditional owners of the country that includes the site areas. Additional sites were found by an expedition led by the University of Western Australia and Western Australian Conservation and Land Management in 2003 (Penny Coleing, pers. comm.). An overview of the sailing routes is presented in Figure 6.

Several anthropologists and archaeologists who have researched in northern Australia have confirmed this picture.[5] Other records confirm the general outline of the fishery. Baudin's expeditions in 1803 encountered 26 large perahu off northern Western Australia, and the expeditioners ascertained that Makassans had been visiting for centuries (Serventy 1952:15). Matthew Flinders (1814:232) met up with six perahu off north-eastern Arnhem Land in 1803 and was able to converse with the crew by using a translator. The Makassans kindly delayed their return journey in order to give Flinders more information about the fishery.[6] Captain Phillip King (1827:135–6)

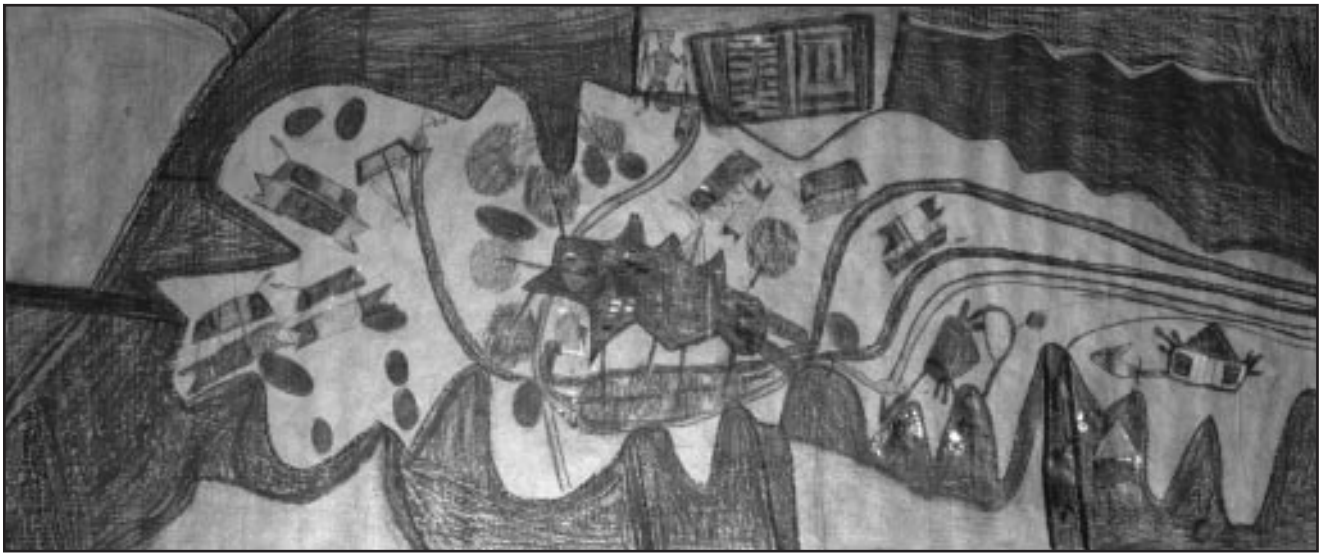


Figure 3
Mawalan Marika, *Map of Yalangbara (Port Bradshaw)* (Hutcherson 1995:34). Reprinted by permission of Buku-Larrngay Mulka and the Berndt Museum

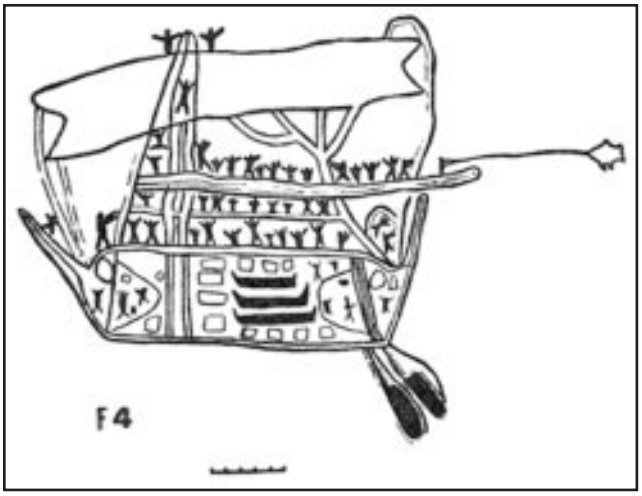


Figure 4
Rock-painting of Makassan perahu (carrying three canoes) in Bickerton Island (Turner 1973:314). Reprinted by permission of D Turner and *Oceania*

met a fleet of perahu in Timor in 1827 and was told that 200 or so perahu annually left Makassar for the Australian coast, mostly heading for eastern Arnhem Land. Alfred Searcy (1909), a Sub-Collector of Customs in northern Australia from 1882 to 1896, described interactions with the Makassan fishers.

Baudin's claim about the history of the fishery would take it back before the eighteenth century, but there are some other suggestions about earlier interactions (McIntosh 1995; cf. Berndt & Berndt 1954:15). Others have pointed out that Macknight has not satisfactorily explained his very early archaeological dates (800 BP) for the industry (Clarke 2000a:325–6; Evans 1992:46). There is, however, no evidence of Chinese traders visiting southern Sulawesi prior to the seventeenth century (Reid 1983:122), and they were a driving force for the fishery. At least there is a consensus that the Makassan fishery in Australia was thriving in the eighteenth and nineteenth centuries. Makassan fishing was stopped

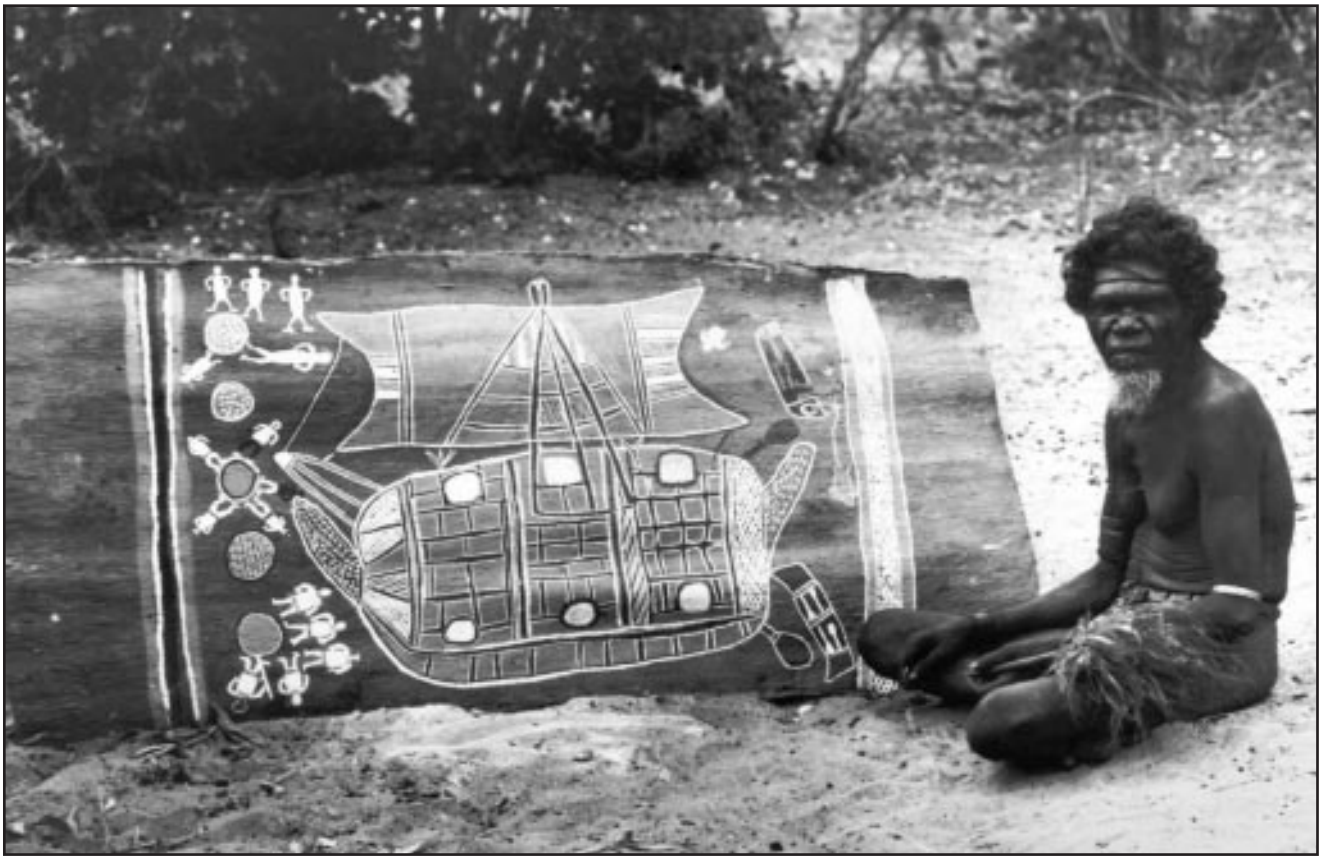


Figure 5
Wonggo (from Caledon Bay), drawing of a Makassan perahu (Thomson 1949: following 58). Photograph by DF Thomson, courtesy of Mrs DM Thomson and Museum Victoria

in 1906 by the Australian government, probably because they wanted to take over the fishery themselves (Berndt & Berndt 1954:78).

Macknight (1976:17–18) claimed that the fishers from southern Sulawesi, who have been loosely called Makassan, were composed of two groups: Makassans and Bugis. It is possible that the two groups visited separately and that there were other people from Timor and Aru involved in fishing the Australian coast (Berndt & Berndt 1954:40). The detail of that debate is not central to the main concern of this paper. 'Makassan' as an umbrella term for people from Makassar will be used. There does seem to be agreement that they were the most numerous visitors.

Economic features of Makassan–Aboriginal interactions

A superficial acquaintance with Makassan–Australian history may lead to the view that Makassans came here, took what they wanted from the sea and, on the side, did a bit of trading with Aborigines. A similarly narrow perspective sees Makassans as bestowing gifts on Aborigines. A more detailed study, especially of the few Aboriginal accounts, shows that the economics of the fishery was much more complex. There is evidence to suggest that Makassans negotiated with Aborigines for the right to fish these waters. The trepang were one of the trade items; they were not just freely given to the Makassans. Many Aborigines were employed as key workers in the fishery.

Mary Yarmirr, in giving evidence in the Croker Island case (Federal Court of Australia 1997:47), said that:

> I was told by my father that those people [Makassans] who did come, when they anchored these waters here and came ashore, they asked permission from the chief or the head person, the leader, to get trepang.

Donald Thomson's Arnhem Land informants said 'that they [Makassans] paid tribute each season to the owners of the territories for the right to fish for

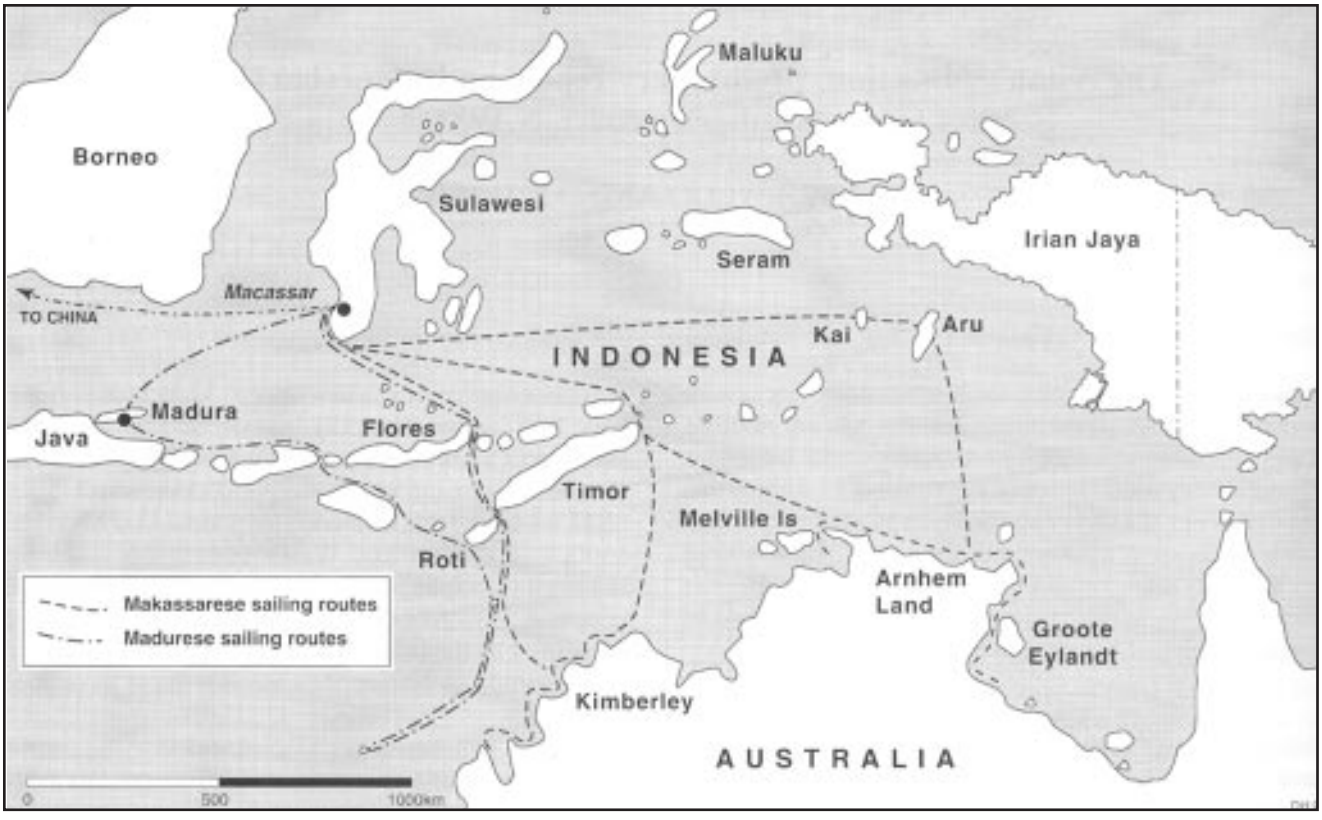


Figure 6
The northern Australian coast and adjacent areas of Indonesia. Dashed lines show shipping routes for Australian trepang (Morwood & Hobbs 1997:198). Reprinted by permission of *Oceania*

trepang and pearls' (Thomson 1949:51). Palmer (1988:151), working on Groote Eylandt, was informed that traditional owners:

> have the right to be consulted about any activity that is to be conducted within their estate. This includes… casual visits and access…the Macassan trepangers had always asked for this permission and…it had usually been granted.

If it was not necessary for Makassans to seek permission, then it is puzzling that they did not fish in some areas, such as Melville Island, that were much more accessible than places further south. The Melville Islanders were said to be hostile (Daeng Sarro, in Mulvaney 1989:182; Searcy 1909:46), but perhaps they simply did not want the Makassans to work there. This point is taken up below.

As well as permission to fish, payment in the form of exchange was given for the trepang. This was part of a broad exchange arrangement whereby Aborigines allowed the extraction of trepang and gave the Makassans other goods, and Makassans supplied Aborigines with various goods, sometimes money (Berndt & Berndt 1954:16, 44).

There is an account from Makassar in the 1950s: Daeng Sarro remembered the trade and mentions giving tobacco and strong drink in exchange for turtle-shell, bezoar stones, mother-of-pearl and horn (Mulvaney 1989:180–5). Harry Makarrwalla, interviewed in 1926 in Millingimbi, listed tomahawks, calico, rice, syrup, knives and gin as trade items (Anon. 1997:35). Dugout canoes seem to have been a highly prized item of exchange (Thomson 1949:58). One such canoe is in the Australian Maritime Museum. It belongs to the Yanuwa people from eastern Arnhem Land. The caption says that they originally obtained these canoes from Makassans and then made their own. McCarthy (1960:381–2), discussing the Chasm Island rock-art picturing dugout canoes, said that such paintings were similar to those found on nearby Groote Eylandt.

Permission was also given to Makassans to hew long cypress pine logs for building projects in Makassar (Mulvaney 1989:26). According to Macknight (1976:84), the effective value of these exchanges was greater for Aborigines. Warner (1932:484, 487) mentioned that Aborigines put no value on trepang, turtle-shell or pearls; the latter two were easily obtained while getting food or pearl shell.

The third economic aspect of the Makassan–Aboriginal interchange concerns the employment of Aborigines in the trepang industry. Daeng Sarro stated that Aboriginal men were prepared to work on the perahu, collecting trepang in return for food and tobacco (Mulvaney 1989:182). Tindale (1926:130), Worsley (1955:3) and the Berndts (1954:45) mentioned other goods and money as payment for labour. Wanduk Marika (1995:51), a custodian of Yalangbara (Port Bradshaw) and leader of the Rirratjinu people, Dhuwa moiety, also mentioned monetary payment:

> Macassan used to give this thing to Yolngu for working, they used to work for Macassans, my father's father, Djuwakan, used to working for them and my grandfather and my father used to work on this one, and they, Macassans, used to give them this—bulayi or doi, and that why they get this name—rupiah, because the Macassan gave them this name (but our own name is bulayi). Bulayi is a metal, doi is the money, rupiah is the money we use right now.

Given this range of economic interactions, it is not possible to conclude that one side benefited at the expense of the other, as some authors suggest, at least not for 200 years. Berndt (1979:294), for instance, wrote that the north-eastern Arnhem Landers used the Makassans for their own purposes; Searcy (1909:13) that, before the annexations by Europeans in 1863, Makassans were free to fish 'to their own profitable account' as 'the coast was waste'. Others consider that a mutually profitable economic relationship was more plausible (Mulvaney & Kamminga 1999:414), while granting that there are likely to have been pockets of exploitation and violent encounters from both sides during some of the time in some of the places.

There are differences of opinion about the importance of these economic interactions. Warner (1932:481–2) claimed that they had little importance, stressing that the Aboriginal ideas of trade remained unaltered. Worsley (1955:4) argued that there was little effect on economic organisation. A detailed argument was presented by Thomson (1949) that there was an important effect on the elaborate systems of exchange operating between coastal and inland Aboriginal groups. Recent archaeological work on the Cobourg Peninsula by Scott Mitchell backs this up. He found that the largest assemblages of artefacts from inland locations occurred in coastal sites dating to the period *after* Makassan fishing began; it seems that Makassan goods were traded out of the area and he suggests that this practice helped to 'mediate disputes and defuse violence' that 'accelerated after smallpox ravaged the area' (Mitchell 1995, 1996, 2000). Judy Campbell's study of smallpox certainly

supports the point that it had a massive impact in northern Australia (Campbell 2002).

Another important economic consequence was the shift to a more marine economy by coastal Aboriginal peoples. The dugout canoes allowed them to fish in deeper water and with greater stability. This made it easier to catch big marine mammals such as dugong and sharks, an idea developed by Clarke (2000a, 2000b).

Related to the shifts in economic arrangements are two points about gender. Clarke (2000b:171) argued that, if Aboriginal men were engaged some months of the year in working for the Makassans, then Aboriginal women may have been forced to carry out a broader range of subsistence practices than prior to the Makassan visits. Also, Aboriginal men who were involved in collecting the trepang for the Makassans were carrying out an activity, gathering, that was traditionally female.

Cultural features of the Aboriginal–Makassan interactions

Here too there are differences of opinion. Some investigators downplay any cultural influence on Aboriginal peoples (Crawford 1968; Warner 1958:468). Macknight (1972:318) wrote that the 'Macassan influence contributed merely an exotic colour to the cultural fabric of certain Aboriginal societies'. Others say that the influence was profound (Thomson 1949:82–3; Worsley 1955:6). There was little discussion of Aboriginal cultural influences on Makassans in the literature surveyed, except a hint about languages and ceremony. Urry and Walsh (1981:91) suggested that an amalgam of Aboriginal and Makassan languages had developed. McIntosh (1996:53) mentioned that in 1996 some dancers from Elcho Island went to Makassar:

> to perform a ritual associated with the 'Dreaming' creation figure, Walitha/walitha, also known as Allah. Aborigines are said to share this ceremony, known as the *Wurramu*, with the people of Macassar.

It is very unlikely that, over a 200-year period, the cultural influence was only one way. It would be interesting to know for example what happened to the pearls and turtle-shell taken to Makassar; were they traded out of the country like the trepang? Makassans shared with Aboriginal peoples a regard for the sea as a spiritual place. Both groups proclaimed certain rocks along the coast to be sacred. Makassans placed offerings on them in the form of food, goods and money, 'to appease the spirits of the sea...The Aborigines, who respected this custom and looked upon the rocks as sacred, would never remove or steal [the offerings]' (Berndt & Berndt 1954:45). Some Makassan houses were made out of Australian timber. Some Makassans were placed within an Aboriginal kinship framework (Macknight 1976:85). Together these suggest there was some influence upon Makassan culture.

The influence of Makassan on Aboriginal cultures takes diverse forms, involving ceremonies, customs, languages, artistic works, myths and song cycles. Burial ceremonies, for instance, incorporated Makassan features reminiscent of the raising of the sails for the departure of the perahu (Marika 1995:50); a display in the Australian Museum explains this ceremony. In a secular Aboriginal ceremony, the carved *wuramu* figure represents the 'Collection' or 'Crook Man' inspired by the observations during the late eighteenth century that Europeans took money from the Makassans for licences and duties on goods (Searcy 1909). In the ceremony, the Crook Man attempts to take valuable items that are not his (Berndt & Berndt 1954:16–17, 62–3). Pipe smoking and the growth of a particular form of beard worn by some Aboriginal men were customs copied from Makassans (Marika 1995:50). A Makassan glass bottle has been incorporated as a ceremonial totem by the Mildjini people in Arnhem Land (Figure 7).

Several recent studies of the acceptance of Indonesian words in Aboriginal languages have been conducted. Evans (1992) found 200–300 words from Makassan in Yolngu languages (see also Walker & Zorc 1981). Urry and Walsh (1981) accepted that there were influences on the vocabulary and also suggest possible syntactic/semantic influences, claiming that in some languages the effect was more marked and that after 1906 the influence lessened. Worsley (1955:5) attributed the introduction of carving in the round by Aboriginal artists to Makassan influence. The motifs in many Arnhem Land artworks show strong Makassan themes, for example in sand sculpture (Figure 8) and stone pictures (Figure 9). The anvil shape of Makassan sails is a common motif in Arnhem Land paintings even in recent times.

There are numerous paintings of Makassan perahu (see Figures 4 and 5) and dugout canoes. There is an extraordinary painting by Nawakadj

Nganjmirra, a senior man of the Djalama clan and a member of the Yirridja moiety whose country is east of Oenpelli; it is extraordinary because of the intensity of the violence depicted, violence against Makassans for sailing into a sacred place and by a Makassan, 'Luma Luma'. Nganjmirra (1997:249) wrote:

Figure 7
Replica or 'malli' of old square-faced bottle. The geometric design represents clouds reflected on the wet surface of the bottle washed up on the shore. The small figures around the centre are trepang seen through clear water (Thomson 1949:following 58). Photograph by DF Thomson, courtesy of Mrs DM Thomson and Museum Victoria

Figure 8
A sand sculpture of an anchor and mooring rope, with a Makassan-influenced grave-post in the background. North-eastern Arnhem Land, photo by Donald Thomson, 1937 (Wiseman 1996:81). Courtesy of Mrs DM Thomson

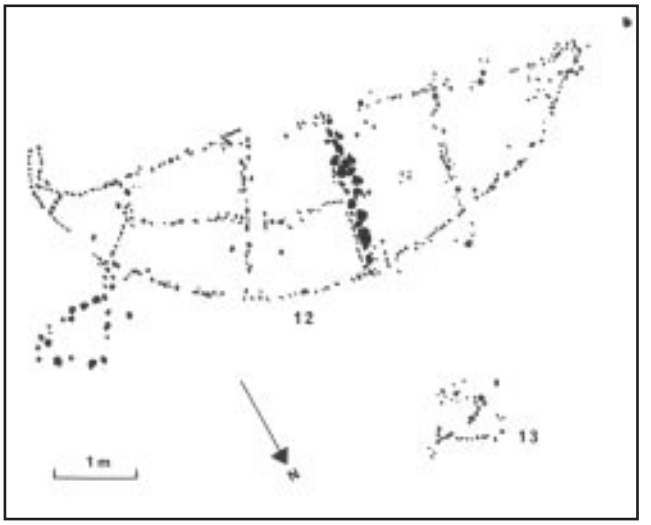


Figure 9
A stone picture of a Makassan prau in Wurrawurrawoi, eastern Arnhem Land (Macknight & Gray 1970:12). Reprinted by permission of CC Macknight

> This man Luma Luma came from overseas, Macassar…he sank that Macassan boat because they sailed into a sacred place. Luma Luma, he broke that boat, any boat—warship or canoe, Luma Luma will break that boat into pieces. He's a strong man. He cut that boat into pieces and killed all them people. They came to the wrong place.

Myths documented by Warner (1958:536–7) about a Makassan man and a dog take up themes of identity and ownership. McIntosh (1994:81) interpreted these stories to mean 'that Aborigines must direct change in their lives, in their own ways'. Finally, some song cycles recount the Makassan voyages (Berndt & Berndt 1954:51; Worsley 1955:5).

The diversity and depth of Makassan influence on Aboriginal culture shows quite a high degree of accommodation and acceptance of the fishermen and their activities that would be unlikely if there were not mutual respect for people and property.

Psychological features of the interactions

The relevant psychological features concern the friendliness or hostility between Aboriginal peoples and Makassans. If the relations were friendly, then it is likely that some satisfactory negotiation had taken place concerning the fishing industry; if there was hostility, then one side or the other considered that the arrangements were not working for them.

There are varying reports in the literature. That Melville Islanders were hostile to Makassans was noted by the Indonesian informant Daeng Sarro (Mulvaney 1989:182) and Macknight (1969:182), but it does not fit well with the linguistic evidence referred to above. Tindale (1925:66) stated that 'The Northern Territory natives have apparently always been hostile to the alien intruders who visited their coasts', reporting that Groote Islanders hated the Makassans and tried to kill them; but he does say that the Makassans stole things from them, enticed them to drink, beat them when they would not work, and abducted Aboriginal women to take back to Makassar (Tindale 1926:131). Pobasso, the Makassan who spoke with Flinders (1814:231–2), said that 'they sometimes had skirmishes with the native inhabitants of the coast' and cautioned him to 'beware of the natives'. Crawford (2001:76) claimed that the Kimberley coast Aboriginal people were 'extremely fierce', but Morwood and Hobbs (1997:200) cited linguistic evidence that hostility was not always the case in that area.

Using archaeological work in the northern Kimberley, Stone (1999:73, 75) argued that there were two phases in the Makassan fishery. In the early nineteenth century, sites were located in defensible positions, suggesting to him that relations between Makassans and Aborigines may have been hostile. In the late nineteenth century, Makassan sites were not located in defensible positions, suggesting that relations were peaceful. Stone also drew attention to what appear to be strategically planted tamarind trees;[7] the trees are found about 10 km apart in the northern Kimberley, corresponding with trepang processing sites. Stone (1999:99–100) considered the existence of tamarind trees in these locations to indicate that Makassans 'had a highly organised approach to the trepang industry…with a substantial expectation of longevity of the industry', an expectation which would have been ill-founded in a hostile environment.

There is visual evidence pointing to peaceful relationships in Melville Bay, as depicted in the painting (Figure 10) where the black figures represent Aborigines, the others Makassans; it is a harmonious scene, with the two groups working together.

Thomson (Wiseman 1996:2) wrote to the Minister for the Interior in 1935 that:

> Generally speaking, the Arnhem Landers of this area [Caledon Bay] did not welcome aliens except on their own terms, i.e. according to the rules of behaviour laid down by Aboriginal law. Later comers, the Europeans and Japanese, did not conform to the code of conduct to which the Macassans had abided for hundreds of years. In 1932, as a result of behaviour considered inappropriate in relation to Aboriginal women, the men of Caledon Bay killed five...Japanese [crew].

Lack of respect for Aboriginal women seems to be a common theme in reports of Aboriginal hostility (Berndt & Berndt 1954:22–3, 47, 213; Swain 1993:164). But Warner's (1958:467) eastern Arnhem Land informants spoke 'very highly' of Makassans and mentioned their generosity; they particularly noted that the Makassans 'let our women alone'.

The Berndts (1954:17, 19) claimed that during the early Makassan visits 'relations between the Aborigines and the traders seem to have been most amiable' but that they broke down when Europeans entered the area. Searcy, the customs officer mentioned above, certainly found Aborigines unfriendly, but he was taking money from the Makassan fishers, a practice that Aborigines did not consider legitimate, and at the same time interfering with the

Figure 10
Bark-painting of two perahu and trepang boilers under a tamarind tree, by Madaman (Riradjingu clan) (Macknight 1976: following 44). Reprinted by permission of Buku-Larrngay Mulka and National Museum of Australia

arrangements they had with the Makassans. Searcy (1909:174) wrote glibly that 'a whole nigger camp was wiped out', but 'thus it will ever be in developing a new country where the aborigines are all hostile'. This stands in sharp contrast with the Makassan attitude as reported by Thomson in 1949: 'the Macassan seafarers recognised the native ownership of the land and the surrounding waters, and paid tribute to the members of the local clans for the fishing rights' (Anon. 1999:21).

Consistency and credibility of sources

There is very little inconsistency in the general description of Aboriginal–Makassan interactions. Earlier, no investigations had been completed on the Kimberley coast but that is now recognised as an important area of interaction (disagreement on the timing of the visits is of marginal concern to this discussion).

Some of the economic features noted above are not mentioned by some commentators—they may discuss trade but not employment or permission. Lack of mention of employment may just indicate that in the particular area studied Aboriginal people were not employed in trepanging. Lack of mention of permission to fish may reflect a European perspective, such as that of Searcy (1909:13), that there was no need for permission as the coast was 'a waste'. It would then be hard to hear Aboriginal voices that were saying that permission was needed.

The views of early writers such as Warner (1932) that the economic interactions were unimportant do not stand up with the recent research into exchange networks, especially the archaeological work of Mitchell (1995, 1996, 2000). The shift into a broader type of marine economy enabled by the use of dugout canoes (Clarke 2000b) was another important consequence of the interactions. Whether the shifts in gender roles attending the changed economic situations had any long-term reverberations is uncertain.

It is difficult to reconcile the view that Makassan influences on Aboriginal cultures were minimal with the wide range of examples presented above, but much of that material may not have been known to early writers. The linguistic evidence in particular has been published only in the last 20 years.

A mixed picture of the psychological interactions emerges from the literature, but blanket statements such as: 'Aborigines were hostile/friendly' seem

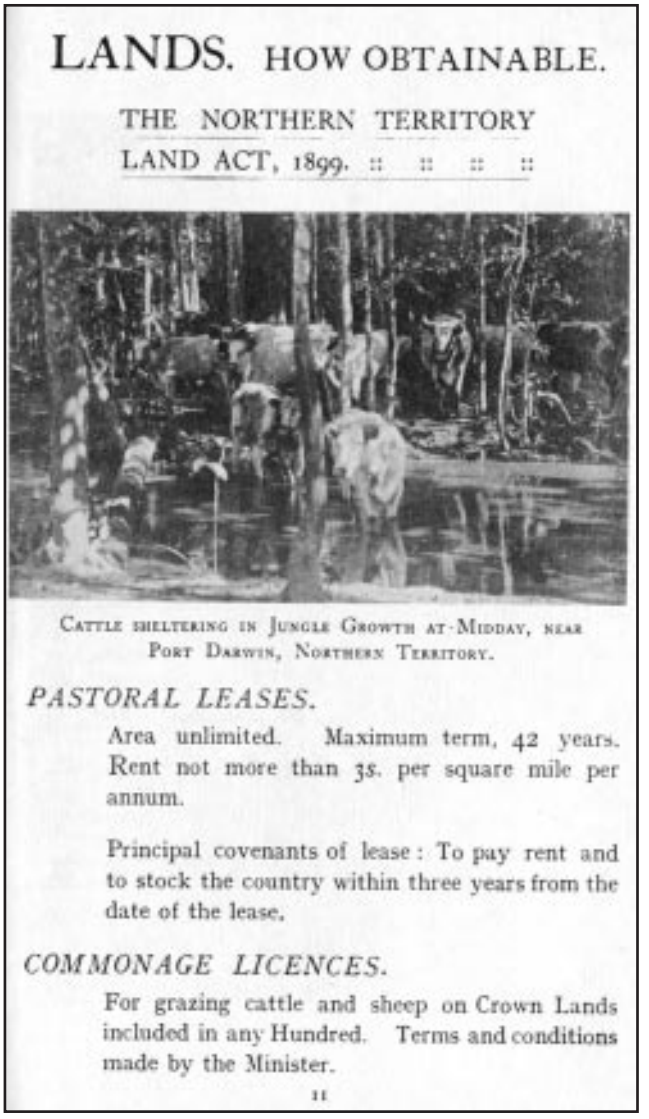
unsustainable. Generally, if Aboriginal peoples were treated with respect in three key areas—the treatment of women, ownership of land and sea country, and spirituality—then relations were friendly. Specific areas of hostility which cannot be explained in this way may be a result of unique circumstances; the hostility of Melville Islanders towards all foreigners might be explained by their being enslaved by Portuguese before Makassans arrived (Mulvaney & Kamminga 1999:422).

Apart from the issue of consistency it is also important to ask what factors could affect the credibility of these accounts. There could have been trade rivalry; Pobasso might have been concerned that Europeans could become rivals for the trepang trade and thus overemphasised to Flinders stories of Aboriginal hostility.

That Eurocentric perspectives dominated European views of Aboriginal peoples until the late twentieth century is especially important to the current topic in that Aboriginal ideas of ownership, possession and right might be rendered invisible because of Eurocentric bias. There is very little criticism in the sources concerning the European assertion of ownership of northern Australia in the mid-nineteenth century (McGrath 1995:275). If that ownership claim is not challenged, there is a presumption that there was no prior ownership of land; it is even more difficult from a Eurocentric perspective to accept the idea of ownership of sea. However, if it is the case that Aboriginal peoples do not make a distinction between land and sea country, a point strongly argued in the Saltwater collection (Anon. 1999:12–17) and by Bradley (1998:128), then for coastal groups ownership of sea is no more problematic than ownership of land.

It is instructive to look at an advertisement placed in the early twentieth century, encouraging Europeans to take over Aboriginal land (Figure 11), and to compare it with the type of promotion of present-day fishing in the Northern Territory. According to *Fishing the Territory*, fishing opportunities in 'beautiful billabongs, big tidal rivers, mangrove-lined estuaries and pristine coastal water' are wide open except for some catch limits (Anon. 2002:2, 46). This encourages non-Indigenous fishers to exploit Northern Territory waters. The assumption in both cases is that Indigenous interests in land or sea do not count.

Even the anthropologists who seem closest to Aborigines (Thomson and the Berndts) engaged in a Eurocentric practice: the collection of paintings and sculptures for museums, a practice that may have brought appreciation of Aboriginal ways of life to Europeans but which may have also entrenched ideas about difference in respect to rights, encouraging perception of Indigenous peoples as objects of study and interest but not as full citizens.



LANDS. HOW OBTAINABLE.

THE NORTHERN TERRITORY LAND ACT, 1899.

CATTLE SHELTERING IN JUNGLE GROWTH AT MIDDAY, NEAR PORT DARWIN, NORTHERN TERRITORY.

PASTORAL LEASES.

Area unlimited. Maximum term, 42 years. Rent not more than 3*s*. per square mile per annum.

Principal covenants of lease: To pay rent and to stock the country within three years from the date of the lease.

COMMONAGE LICENCES.

For grazing cattle and sheep on Crown Lands included in any Hundred. Terms and conditions made by the Minister.

11

Figure 11
Advertisement, reproduced in Searcy (1909, appendix 11: 'Points for Intending Settlers')

Another issue of credibility of the sources concerns the fact that most of the accounts are from men and about men. Catherine Berndt, Carmel Schrire, Annie Clarke, Judy Campbell and Mary Yarmirr are exceptions. Ronald Berndt (1979:282) worked on genealogies, as this:

> procedure provided one of the best means of getting to know people. It enabled me to see the organization of social life through the eyes of a number of men, since I have worked only with men.

Perhaps some balance was provided by the insights of Catherine Berndt, but other European explorers, anthropologists and archaeologists seem to be working exclusively in male company. Their approaches might fail to take account of women's perspectives. In particular, women sometimes were items of exchange in Aboriginal–Makassan trading (Swain 1993:164). What did they think about this? Did they view that interaction as legitimate or as a form of sexual slavery? Makassans were collecting trepang with or without the help of Aboriginal men. Collecting was a traditional female occupation; what did women think about this violation of role and the legitimacy of the fishery? The fact that they might have been powerless to stop it does not mean that they did not have views about its legitimacy. The views of Aboriginal women concerning the Makassan fishery might have been quite different from what the male informants have told the male investigators.

What conclusions are possible about Aboriginal–Makassan interactions when possible sources of bias are considered? The Eurocentric bias might disguise evidence that Aborigines entered into negotiated arrangements for fishery to proceed—that is, that they exercised a right to exclude. Whether the general description of the interactions would change if the voices of women could be heard is difficult to say. Mary Yarmirr's evidence in the Croker Island case does not contradict this account, but more oral histories would be valuable.

How are the documented interactions relevant to sea rights claims?

The interactions described show that in some places Aborigines did assert a right to exclude Makassan fishers. At Melville, Bathurst, Wellesley and Howard Islands, there was no fishing or it was very restricted, and at least for two of these islands the reasons seem clear. At Howard Island there were spiritual reasons, and at Melville Island there were historically bad relations with other foreigners. Given the size of Makassan fleets, it is likely that Aborigines often were outnumbered, and they had inferior weaponry (Macknight 1976), so Kirby's High Court argument is pertinent. Although Aboriginal peoples may have had a right to exclude, and in some cases wanted to, in some instances they may have been unable to do so.

The view that Aborigines did not assert a right to exclude Makassan fishers seems very limited. If it was the case on Croker Island, as stated by Mary Yarmirr, that Makassans were given permission to fish, this could have been to the mutual benefit of her ancestors and the Makassans. To argue that they did not exclude Makassans is irrelevant to whether they have a justifiable claim over the sea country.

As a general point, Aborigines may not have asserted their right to exclude because they had no desire to do so. This is where the arguments above come into play. To take the economic interactions first: if permission had been requested to fish, if payment was made for the fishery (e.g. canoes for trepang), if men were employed in exchange for goods, if there was further trading to mutual benefit, why would Aborigines not allow the fishery to flourish?

Economic benefit is not everything. If Makassans violated social norms or spiritual beliefs, then it is likely that friction occurred; Makassans had good reasons not to do so, however, as it would have disrupted their fishery. They shared a belief in the sea as a spiritual realm, which would have made them open to Aboriginal concerns about spirituality. Nevertheless, it is clear that at times Aborigines had social and spiritual reasons for wanting to limit the fishery. If there had not been a broad acceptance of the legitimacy of Makassan fishery, the influence of Makassan culture on Aboriginal culture, especially in areas of deep significance such as burial rituals, would be difficult to explain.

The history of Makassan–Aboriginal interactions justifies a rethink of the basis for sea rights claims for Aboriginal peoples. If Makassan fishing formed part of a network of negotiated arrangements in the eighteenth and nineteenth centuries, this provides good basis for the restitution of similar negotiated arrangements in the twenty-first.

ACKNOWLEDGMENTS

I thank Annie Clarke, Lisa Strelein and Nicolas Peterson for useful discussions, Lesley Head for her comments on an earlier draft and her encouragement, Graeme Ward for patient editorial work, anonymous reviewers, and the Saltwater Exhibition for an inspiring presentation of sea rights claims.

NOTES

1. The trading port in southern Sulawesi was called 'Macassar' by the Dutch. Suharto changed the name to 'Ujung Pandang'. Gus Dur changed it to 'Makassar' in 2000. The last spelling will be followed here except for direct quotes.

2. Trepang was sometimes called 'sea swallow' (Hall 1957:29).

3. There are some Anglicised versions of this word, most commonly 'prau'. The Indonesian spelling for boat is 'perahu'. This will be used unless quoting directly.

4. A member of the class *Holothuroidea* and the animal phylum *Echinodermata*.

5. Lloyd Warner (1958) worked mainly in the Millingimbi region in the 1920s; Donald Thomson (1949; Wiseman 1996) worked extensively in Arnhem Land in the 1930s; Frederick McCarthy and Frank Setzler (1960) in eastern Arnhem land in the 1940s; Ronald and Catherine Berndt (1954, 1990; Berndt 1979) in Arnhem Land also in the 1940s; John Mulvaney in Arnhem Land in the 1960s; Carmel Schrire (1972) at Port Bradshaw in 1970s; Ian McIntosh (1994, 1995, 1996, 1997) in eastern Arnhem Land in the 1990s; and Scott Mitchell (1995, 1996, 2000) on the Cobourg Peninsula. There have been many researchers on Groote Eylandt, including Norman Tindale (1925, 1926) during 1921 and 1922; Peter Worsley (1955) in 1952 and 1953; and more recently David Turner (1974), and Anne Clarke (2000a, 2000b).

6. In May 2002 an Australian stamp was produced commemorating the meeting between Baudin and Flinders in Encounter Bay near Adelaide in 1802.

7. The fruit of the tamarind was used by Makassans for 'flavouring rice and fish dishes, making an astringent vitamin supplement drink and eaten raw' (Stone 1999:93).

REFERENCES

Anon. 1997, *The native born*, Museum of Contemporary Art, Sydney, in association with Bula'bula Arts, Ramingining.

—— 1999, *Saltwater: Yirrkala bark paintings of sea country: recognizing Indigenous sea rights*, Buku-Larrngay Centre in association with Jennifer Issacs Publishing, Yirrkala and Sydney.

—— 2002, *Fishing the Territory 2002/2004*, Northern Territory Holiday Centre, NT Tourist Commission, Darwin.

Berndt, RM 1979, 'Looking back into the present: a changing panorama in eastern Arnhem Land', *Anthropological Forum* IV:281–97.

Berndt, RM & Berndt, CH 1954, *Arnhem Land: its history and its people*, Cheshire, Melbourne.

—— 1990, *Man, land and myth in north Australia: the Gunwinggu people*, Ure Smith, Sydney.

Bradley, J 1998, 'We always look north: Yanyuwa identity and the maritime environment', in N Peterson & B Rigsby (eds), *Customary marine tenure*, University of Sydney (Oceania Monograph 48), pp. 125–41.

Campbell, J 2002, *Invisible invaders*, Melbourne University Press.

Clarke, A 2000a, 'The "Moorman's Trowsers": Macassan and Aboriginal interactions and the changing fabric of indigenous social life', in S O'Connor & P Veth (eds), *East of the Wallace Line: studies of past and present maritime cultures of the Indo-Pacific region*, AA Balkema, Rotterdam, pp. 315–35.

—— 2000b, 'Time, tradition and transformation: the negotiation of cross-cultural engagements on Groote Eylandt, northern Australia', in R Torrence & A Clarke (eds), *The archaeology of difference: negotiating cross-cultural engagements in Oceania*, Routledge, London, pp. 142–77.

Crawford, I 1968, *The art of the Wandjina*, Oxford University Press, Melbourne.

—— 2001, *We won the victory: Aboriginal and outsiders on the north-west coast of the Kimberley*, Fremantle Arts Centre Press, Fremantle.

Crawfurd, J 1971 (1856), *A descriptive dictionary of the Indian islands and the adjacent countries*, Oxford University Press, New York.

Evans, N 1992, 'Macassan loanwords in Top End languages', *Australian Journal of Linguistics* 12:45–91.

Flinders, M 1814, *A voyage to Terra Australis...in the years 1801, 1802 and 1803 in His Majesty's Ship the Investigator*, G&W Nicol, London.

Hall, B 1957, 'The oldest industry', *Walkabout* 1 May, pp. 29–30.

Hutcherson, G 1995, *Djlkiri Wanga: the land is my foundation*, Berndt Museum of Anthropology, University of Western Australia, Perth.

King, PP 1827, *A survey of the intertropical and western coasts of Australia 1818–1822*, vol. 1, John Murray, London, pp. 128–38.

Macknight, CC (ed.) 1969, *The farthest coast: a selection of writings relating to the history of the northern coast of Australia*, Melbourne University Press.

Macknight, CC 1972, 'Macassans and Aborigines', *Oceania* XLII:283–319.

—— 1976, *The voyage to Marege': Macassan trepangers in northern Australia*, Melbourne University Press.

—— 1981, 'Journal of a voyage around Arnhem Land in 1875', *Aboriginal History* 5(2):135–44.

Macknight, CC & Gray, WJ 1970, *Aboriginal stone pictures in eastern Arnhem Land*, Australian Institute of Aboriginal Studies, Canberra.

Marika, Wanduk 1995, *Wanduk Marika: life story*, University of Queensland Press, St Lucia.

McCarthy, FD 1960, 'The cave paintings of Groote Eylandt and Chasm Island', in CP Mountford (ed.), *Records of the American–Australian Scientific Expedition to Arnhem Land*, vol. 2, Melbourne University Press, pp. 297–414.

McCarthy, FD & Setzler, FM 1960, 'The archaeology of Arnhem Land', in CP Mountford (ed.), *Records of the American–Australian Scientific Expedition to Arnhem Land*, vol. 2, Melbourne University Press, pp. 215–95.

McGrath, A 1995, *Contested ground: Australian Aborigines under the British Crown*, Allen & Unwin, Sydney.

McIntosh [MacIntosh] IS 1994, 'The dog and the myth maker: Macassans and Aborigines in north-east Arnhem Land', *Australian Folklore* 9:77–81.

McIntosh, IS 1995, 'Yolngu sea rights in Manbuynga ga Rulyapa (Arafura Sea) and the Indonesian connection', in J Finlayson & DE Smith (eds), *Native title: emerging issues for research, polity and practice*, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra, pp. 9–22.

—— 1996, 'Islam and Australia's Aborigines: a perspective from north-east Arnhem Land', *Journal of Religious History* 20:53–77.

—— 1997, 'The Birrinydji Legacy: Aborigines, Macassans and mining in north-east Arnhem Land', *Aboriginal History* 21:70–89.

Mitchell, S 1995, 'Foreign contact and indigenous exchange networks on the Cobourg Peninsula, north-western Arnhem Land', *Australian Aboriginal Studies* 1995/2:44–8.

—— 1996, 'Dugongs and dugouts, sharptacks and shellbacks: Macassan contact and Aboriginal marine hunting on the Cobourg Peninsula, northwestern Arnhem Land', in IC Glover & P Bellwood (eds), *Bulletin of the Indo-Pacific Prehistory Association* 15:181–91.

—— 2000, 'Guns or barter? Indigenous exchange networks and the mediation of conflict in post-contact western Arnhem Land', in R Torrence & A Clarke (eds), *The archaeology of difference: negotiating cross-cultural engagements in Oceania*, Routledge, London, pp. 182–214.

Morwood, MA & Hobbs, DR 1997, 'The Asian connection: preliminary report on Indonesian trepang sites on the Kimberley coast, NW Australia', *Archaeology in Oceania* 32:197–206.

Mulvaney, DJ 1975, *The prehistory of Australia*, Penguin, Melbourne.

—— 1989, *Encounters in place: outsiders and Aboriginal Australians 1606–1985*, University of Queensland Press, St Lucia.

Mulvaney, DJ & Kamminga, J 1999, *Prehistory of Australia*, Allen & Unwin, Sydney.

Nganjmirra, Nawakadj 1997, *Kunwinjku Spirit: creation stories from western Arnhem Land*, Melbourne University Press.

Palmer, K 1988, 'Customary marine tenure at Groote Eylandt', in N Peterson & A Rigsby (eds), *Customary marine tenure*, University of Sydney (Oceania Monograph 48), pp. 150–1.

Reid, A 1983, 'The rise of Macassar', *RIMA* 17:117–60.

Searcy, A 1909, *In Australian tropics*, George Robertson & Co., London.

Schrire, C 1972, 'Ethno-archaeological models and subsistence behaviour in Arnhem Land', in DL Clarke (ed.), *Models in archaeology*, Methuen, London, pp. 653–70.

Serventy, DL 1952, 'Indonesian fishing activity', *Australian Geographer* 6:13–16.

Stone, G 1999, 'The archaeology of fishing: interpreting the evidence for the trepang industry in north Kimberley', BA(Hons) thesis, University of New England, Armidale.

Swain, T 1993, *A place for strangers: towards a history of Australian Aboriginal being*, Cambridge University Press.

Thomson, DF 1949, *Economic structure and the ceremonial exchange cycle in Arnhem Land*, Macmillan, Melbourne.

Tindale, NR 1925, 'Natives of Groote Eylandt and of the west coast of the Gulf of Carpentaria: part 1', *Records of the South Australian Museum* 3:62–102.

—— 1926, 'Natives of Groote Eylandt and the west coast of the Gulf of Carpentaria: part 2', *Records of the South Australian Museum* 3:103–35.

Turner, DH 1973, 'The rock art of Bickerton Island in comparative perspective', *Oceania* 43:286–325.

—— 1974, *Tradition and transformation: a study of Aborigines in the Groote Eylandt area, northern Australia*, Australian Institute of Aboriginal Studies, Canberra.

Urry, J & Walsh, M 1981, 'The lost "Macassar language" of northern Australia', *Aboriginal History* 5:91–108.

Walker, A & Zorc, D 1981, 'Austronesian loanwords in Yolngu-Matha of northeast Arnhem Land', *Aboriginal History* 5:109–34.

Warner, WL 1932, 'Malay influence on the Aboriginal cultures of north eastern Arnhem Land', *Oceania* 2:476–95.

—— 1958, *A black civilization: a social study of an Australian tribe*, rev. edn, Harper, New York.

Wiseman, JP 1996, *Thomson Time. Arnhem Land in the 1930s: a photographic essay*, Museum of Victoria, Melbourne.

Worsley, PM 1955, 'Early Asian contacts with Australia', *Past and Present* 7:1–11.

Legal transcripts

Federal Court of Australia 1997, *The Commonwealth of Australia v. Yarmirr and Ors; Yarmirr and Ors v. the Northern Territory of Australia and Ors* (Summary of Judgement by Justice Olney).

High Court of Australia 2001a, *The Commonwealth of Australia v. Yarmirr and Ors; Yarmirr and Ors v. The Northern Territory of Australia and Ors*, February.

High Court of Australia 2001b, Decision of the High Court of Australia, 11 October 2001, updated 29 January 2002, *The Commonwealth v. Yarmirr; Yarmirr v. Northern Territory*.

Denise Russell, after receiving a doctorate in philosophy, lectured in the philosophy department at the University of Sydney where she stayed for two decades, heading the department for three years. She has published widely in books and journals on issues to do with knowledge claims in science, social political philosophy and environmental philosophy. Her attraction to the sea has guided her current postgraduate work in geoscience, but concern about issues of social justice remains dominant.

c/o School of Earth and Environmental Science, University of Wollongong, <dr34@uow.edu.au>