

8. 'No vacancies at the Starlight Motel': Larrakia identity and the native title claims process

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I feel the government has let us down. This Government has let the Larrakia people down. We don't want smiles and we don't want you know slaps and so forth on the back. What we want is to sit down and negotiate outcomes for all concerned.

Bill Risk, Larrakia leader¹

Darwin, the capital of the Northern Territory is built on Larrakia country. When it comes to elections in the Northern Territory, winning the hearts and minds of residents in the northern suburbs is critical. Election campaigns based on the issue of land rights, and hence race, played a significant role in keeping the Country Liberal Party (CLP) in government for 23 years. Notably, the 1983 election was fought almost exclusively on the issue of the return of Uluru to the Mutitjulu Land Trust (Gibbins 1988: 41). More recent elections have focused on Indigenous law and order and the detrimental impact of native title claims on the Northern Territory economy (Newman 1997). In its first term of government the Martin Labor (ALP) government had usefully engaged with Indigenous groups, the Larrakia Nation in particular, to address the issue of Indigenous itinerants in town through the 'Community Harmony' project. However, like the CLP government before it, which had strenuously opposed the Larrakia land claim to the Cox Peninsula, the Martin government was at the same time vigorously opposing the Larrakia Native Title claim over the city of Darwin, generating portrayals of Larrakia as a people who had 'lost their culture'. Fearful of not being re-elected for a second term, the ALP went into the 2005 election with an aggressive platform to address anti-social behaviour, a policy clearly aimed at the Northern Territory's homeless Indigenous residents. In urban centers of the Northern Territory such people are often referred to as 'long grass people' or simply 'long grassers'. The similarities between the ALP campaign and previous CLP campaigns were not lost on many. In April 2006 Justice Mansfield of the Federal Court dismissed the long running Darwin native title claim. In attempting to find a continuing tradition of law and custom that would allow recognition of native title, Mansfield J stated:

¹ Australian Broadcasting Commission (ABC), 'Larrakia native title claim', *Stateline Northern Territory* 21 April 2006. ABC, Darwin.

A combination of circumstances has, in various ways, interrupted or disturbed the presence of the Larrakia people in the Darwin area during several decades of the 20th Century in a way that has affected their continued observance of, and enjoyment of, the traditional laws and customs of the Larrakia people that existed at sovereignty. (Mansfield J 2006: [812])

In his summary to the decision, Mansfield J notes that Larrakia claims to the Darwin area 'were vigorously contested by the main respondents, the Northern Territory and the Darwin City Council' (Mansfield J 2006: [7]). This chapter focuses on the struggle of Larrakia to assert their rights to their traditional estate, and how successive governments have on one hand generated negative portrayals of Larrakia in their opposition to such claims, while on the other hand they have utilised idealised constructions of Larrakia in the pursuit of political gain.

Native title and the colonial process

Mansfield in his determination specified that under s. 223 (1) of the *Native Title Act 1993* (Cwlth) (NTA) Larrakia had to satisfy three criteria to be successful in their claim. These were: that Larrakia were united in and by their acknowledgement and observance of a body of accepted laws and customs at 1825 when sovereignty over Larrakia country was assumed by the colony of New South Wales; that such laws and customs now are 'in essence' the same as those practiced by Larrakia ancestors; and finally that there has been a continuation and substantial non-interruption of the acknowledgement and observance of such laws from 1825 to the present (Mansfield J 2006 [6–8]). The histories of Larrakia people are diverse, and subject to the many vagaries of the colonial process in Australia. Mansfield found that Larrakia had satisfied the first criterion of the NTA with evidence being drawn from the archaeological, linguistic, and historic record. He noted, 'the Larrakia community of today is a vibrant, dynamic society which embraces its history and traditions' (Mansfield J 2006: [11]). Despite this the judge found that the settlement of Darwin, an influx of Indigenous people into the claim area, and the impacts of assimilationist government policy had adversely impacted on the ability of Larrakia people to maintain a continuation of traditional laws and customs (Mansfield, 2006).

The decision demonstrates the narrow focus of the NTA in accounting for of the impacts of the colonial process on Indigenous rights and interests, and its limited ability to recognise the dynamics of change that are encompassed by the term tradition. As Glaskin notes, 'Aboriginal tradition in the native title context tends to be reified towards a pre-colonial moment so that contemporary traditions must be demonstrably continuous from this period' (Glaskin 2005: 297–8). This is despite an increasing body of research highlighting that reinterpretation, reinvention and in some cases revival of cultural practice are integral elements

to the maintenance and assertion of tradition (Glaskin 2005; Hobsbawm and Ranger 1983; Keesing and Tonkinson 1982; Otto and Pedersen 2005; Weiner and Glaskin 2006) David Martin, in an interview on *Stateline Northern Territory* noted that the necessity to prove a continuity of tradition between the present and the society in existence at the time of sovereignty clearly confronts Indigenous people with a test that is not applied to the rest of the Australian population. He cited revitalisation of the celebration of ANZAC day as an example that would not meet the test of 'continuing tradition' as applied by the NTA.²

From its earliest establishment Darwin was a segregated city. In 1911 the Commonwealth assumed responsibility for the Northern Territory from South Australia and adopted the *Aborigines Act 1910*. Under the provisions of this Act, Larrakia became institutionalised within Darwin, their place of residence confined to reserves, and their movement at the discretion of the Chief Protector of Aborigines. Larrakia camps at Lameroo Beach in the city centre, which predated European settlement of the area, were relocated to the Kahlin Compound around 1911. Children of mixed descent were further segregated within the camp. Mansfield J in his decision notes an early report of Beckett, a Protector of Aborigines, that the intent of establishing Kahlin compound was aimed at 'keeping the unemployed natives out of Darwin' (Mansfield J 2006: [247]). Early assertions by Larrakia in the media of their 'special' status vis-à-vis other Indigenous people resident in Darwin, particularly in relation to rations and housing provisions at Kahlin Compound were dismissed by Mansfield J as not being demonstration of a traditional right (Mansfield J 2006: [179-183], [255-256]).

With increasing expansion of Darwin, the Kahlin compound was closed and Larrakia were moved further away from the European population to the Bagot Reserve. Those who had been granted an exemption from the restrictive provisions of the *Aborigines Act 1910*, and the *Aboriginals Ordinance 1918 (NT)*, and also the later provisions of the *Northern Territory Welfare Ordinance 1953*, by law had to cease contact with 'full blood' relatives. Exemption allowed the right to undertake paid employment, which was denied those subject of the various laws. Unable to reside in the town centre, or designated reserves, many of these people lived primarily in the enclaves of the Parap Camp and Police Paddock. Darwin also had a significant Chinese and Malay population who were engaged in activities such as gold mining, pearling, and market gardening. Inter-marriage between these groups and Larrakia people was common. Stigmatised by their Aboriginality in the white town of Darwin, many Larrakia came to expediently identify as being of Asian descent, and to deny publicly their indigeneity. World War II saw further disruption to Larrakia identity and social institutions with the evacuation of many Larrakia to southern States.

² ABC, 'The future of native title', *Stateline Northern Territory* 21 April 2006, ABC, Darwin.

Intermarriage also occurred with members of other proximate Indigenous groups, particularly from the Daly River and West Arnhem regions, who were also residing in Darwin, and upon Larrakia land. In addition members of the Kiuk, Beringgen, Emienthal, Wadjigyn and Mariatjben have occupied Larrakia country on the Cox Peninsula west of Darwin in a caretaker role since migrating north from the Daly River region around the turn of the twentieth century. These groups are now commonly referred to as 'the Belyuen' (Povinelli 1993).

The conditions of control in early Darwin have dictated the identity of contemporary generations of Larrakia and significantly and unevenly affected both the extent and transmission of traditional knowledge of the Larrakia estate. Familiarity within the Larrakia polity was also heavily impacted in these years of administration, and has led to much disputation in relation to Larrakia identity and group membership. Despite this, many Larrakia have maintained and developed their identity as Larrakia through a complex of family and social relations, centred on continued residence in the Darwin area and in reserves, the Parap Camp and Police Paddock. Institutions such as the Sunshine Club, and the Buffaloes sporting club, which have typically been the domain of 'Darwin Aboriginal families', and loosely the Larrakia, have also been an important focus of Larrakia identity.

Modern Larrakia identity and native title

Larrakia assertions of their ownership of Darwin have been present at all points in Darwin's history. In 1971, spurred by the Gove Land Rights case, and the ever-decreasing reserve land in Darwin, Bobby Secretary led Larrakia people and other long-term Indigenous residents of Darwin in a series of protests under the banner of 'Gwalwa Dariniki', 'our land'. These protests, which included sit down blockades of Darwin streets and the hoisting of the Larrakia flag,³ brought the plight of Larrakia, and particular the struggle to gain title of the Kulaluk town camp, to national attention (Day 1994). Justice Woodward enquired into the issues at Kulaluk in his enquiry into Aboriginal Land Rights (Woodward J 1973). However, his recommendation that land rights be recognised in town areas was not incorporated into the *Aboriginal Land Rights (NT) Act 1976* (Cwlth) (ALRA).

The Kenbi land claim was one of the first land claims to be lodged under the ALRA, and having run for 23 years was the longest. It is a claim to Larrakia country on the Cox Peninsula outside the Darwin town boundary. The area is predominantly occupied by the 'Belyuen' who have a custodial relationship with the Larrakia in relation to their residence on Larrakia country. The initial

³ The Larrakia flag is coloured red at one end to represent the 'blood of the old people who were shot', and red at the other end for the blood of the protesters. In the middle is a shady tree on a jungle fowl's nest which represents the location of the early protest meetings at Kulaluk (Day 1994).

unsuccessful claim concluded in 1991. Justice Olney, the Aboriginal Land Commissioner at the time, indicated that he had only been able to identify one Larrakia person who had ‘a “spiritual affiliation” to one site within the meaning of the Act; however, one person cannot be a group, and land rights can only accrue to groups under the Act’ (Olney J 1991; and see Parsons 1998).

A successful appeal was lodged and the entire claim was heard again. The claims process required Larrakia to give representations about their prior ownership of the Darwin area, and indeed themselves. Given the colonial history of Darwin, some Larrakia claimants did not publicly acknowledge their Larrakia ancestry, or had kept it hidden, and in some cases they simply did not know about it. The Kenbi land claim brought about a resurgence of Larrakia identity, and with it contestation from within the group and from opposing parties about the substance and basis of Larrakia identity. Justice Mansfield found that such a resurgence of knowledge did not constitute a continuing Larrakia tradition in the native title claim over Darwin (Mansfield J 2006: [839]).

In the second run of the Kenbi land claim before Justice Gray (1995–2000), the Northern Land Council (NLC) made a strategic decision to divide the claimant group into those descended patrilineally from apical ancestor Tommy Lyons, and the wider Larrakia, who claim their descent cognatically from nine Larrakia apical ancestors. This division fuelled intense contestation about membership of the group. Many Larrakia found their authenticity as Larrakia was challenged by inclusion in the larger group, which, because of its descent model had less chance of fitting the criteria of the Act. In the course of the land claim many of the senior Larrakia passed away. With increased disputation, the long-standing cooperative arrangements with the ‘Belyuen’ became tenuous. The decision of the ‘Belyuen’ group to also contest the claim as traditional owners, despite their custodial relationship with Larrakia in regard to the claim area, created considerable tension, and further challenged the authenticity of Larrakia.

Justice Gray handed down a positive recommendation in 2000, finding in favour of the six descendants of Tommy Lyons (Gray J 2000). The decision, though successful, was devastating for the approximately 1600 Larrakia people who were not recognised as primary traditional owners. The Northern Territory government, which had opposed the Kenbi land claim throughout its 21 year history, asserted that the Commissioner’s decision was ‘bound to have far reaching detrimental effects on the entire population of the Northern Territory’ (Commonwealth of Australia 2001: 22262). Prominent journalist Paul Toohy summed up the adverse public opinion in Darwin in relation to Larrakia in an article in *The Australian*:

The people Darwin folk grew up with have suddenly become Aborigines ... Twenty years ago, these people were not thought of as Larrakia, perhaps because back then they did not loudly proclaim themselves as

such ... will the majority of the Larrakia, who live in houses, watch TV and speak only English, now cross the harbour to dress in lap-laps, and dance in ochre paint? In Darwin, there is a widely held view that these people never were real Aborigines. But if they have suddenly become Aborigines, then let's see the spears and corroborees.⁴

Whilst the Land Commissioner made his positive recommendation in 2000 the grant of title by the federal Minister for Aboriginal Affairs has not occurred and is still pending the settlement of detriment issues.

Prior to the conclusion of the Kenbi Land Claim, three non-claimant applications under the NTA were lodged by the Northern Territory government in respect of a proposed subdivision in Palmerston,⁵ the new East Arm Darwin port,⁶ and the site for the liquid natural gas plant at Wickham Point⁷ in Darwin Harbour. Native title claims lodged in response were cast as Larrakia attempts to halt these major developments, and as an attempt by Larrakia to claim the 'backyards' of Darwin residents (Stone 1998).

In 1994, on the eve of a Northern Territory election, a prominent member of the Danggalabba clan, who assert their separateness and primacy over the 'post-classical' new Larrakia Tribe as described by Sutton (Sutton 1998), held a press conference in the public bar of Darwin's Don Hotel to announce a native title claim over all of Darwin. The claim was not lodged, but the impact on the election result was spectacular, with the CLP increasing its already considerable margin over the ALP. The election campaign itself was characterised by the incumbent CLP government's platform that the ALP intended to introduce a separate legal system for Indigenous people. This position was central in a campaign of 'push polling', a practice that was relatively new in Australian politics (Williams 1997). Speculation and debate that the announcement was made in return for \$50 000 grant funding from the incumbent CLP occurred in the 1994 Sessional Committee on Constitutional Development (Northern Territory Government 1994). The announcement of this claim had a divisive impact on the already fragile Larrakia polity and prompted a considerable public backlash, which expressed itself in the election outcome. The leader of the ALP in attempting to downplay the claim announced that the Larrakia could not demonstrate continuing occupation of the Darwin area, while the incumbent CLP government used the announcement to vigorously state that the claim would halt development in Darwin.

Debate about the vexatious nature of Larrakia claims continued until 1996 when the first proactive Larrakia native title claim over all vacant crown land and

⁴ Toohey, P. 'The traditional owner next door', *Weekend Australian*, 16 December 2000.

⁵ National Native Title Tribunal (NNTT) file no. DC94/1.

⁶ NNTT file no. DC94/4 & 94/5.

⁷ NNTT file no. DC95/1.

reserve land in Darwin was lodged. It was the first such claim over an Australian capital city. Larrakia claimants sought to assure the residents of Darwin that their aspirations for public beaches and reserves concerned Larrakia involvement in the management of these culturally important areas, not the exclusion of non-Larrakia (Carey and Collinge 1997). However, a public backlash occurred, fuelled by political comment from the Darwin Lord Mayor, Chief Minister Stone, and Prime Minister Howard—the latter describing the claim as ‘an extravagant ambit claim’ (Carey and Collinge 1997: 21). The NLC received a significant amount of mostly anonymous hate mail, including a newspaper photograph of Larrakia claimants at a press conference that had been modified by the drawing of targets with bullet holes on their foreheads (Wells 2003).

Due to the unknown nature of native title in these early years, and significant development proposals within the city limits, increased pressure came to bear on Larrakia people to respond to the demands of developers, the government, the general public and agencies such as the NLC and the Aboriginal and Torres Strait Islander Commission (ATSIC). In addition a heightened awareness and recognition of prior Indigenous occupation nationally meant that there was an increased demand for Larrakia people to open events such as conferences, art exhibitions, and festivals. At a number of these occasions Larrakia individuals publicly contested each other’s affiliations and therefore rights to perform as Larrakia in such forums. At an organisational level, a number of competing Larrakia organisations, whose membership was based around family and historical association, competed for the authenticity of their memberships in the arena of native title consultative processes, and within the newly formed Larrakia Nation Aboriginal Corporation (LNAC). This organisation is a coalition, initially facilitated by the NLC, of Larrakia families, individuals and factions, with the primary purpose of providing a corporate identity for Larrakia against increased pressure from external agencies to ‘know’ whom the Larrakia were. Mansfield J, in his assessment of Larrakia tradition, pointed to a ‘breakdown in decision making structures’, noting ‘it is clear that the decision making process among the Larrakia people has been largely transferred to the Larrakia Nation. Its composition is not traditional’ (Mansfield J 2006: [832]).

Larrakiya and the ‘long grassers’

In the mid 1990s the perennial issue of illegal camping in Darwin, with its portrayals of drunken ‘long grassers’ begging, fighting, and defecating in public, by an act of media convenience, public ignorance, and government collusion, became in part attached to the native title debate and hence conveyed negative portrayals of Larrakia as being a people without culture.

The Darwin fringe dwelling population is a diverse group which is predominantly Indigenous, and consists of short-term visitors, and medium to long-term migrants deriving from a variety of Top End communities. It is thought that the itinerant

population, which fluctuates seasonally, is in the vicinity of 150 to 200 people, although some estimate that the figure is as high as 1000 (Memmott and Fantin 2001). A number of the temporary camps, or 'Starlight Motels' as they are sometimes called, are well established and have been populated by Indigenous migrants for many decades. As Bill Day notes, in relation to the residents of Fish Camp, a long term camping area on the Kulaluk special purpose lease, these migrants not only maintain links with their original country, but over time have forged new links with Larrakia people and their land that legitimate by agreement their presence on, and use of Larrakia country (Day 2001: 11). The political support of the fringe dwelling community for Larrakia assertions of traditional ownership has been an ongoing feature of the relationship with Larrakia.

The native title process however, has impacted this informal relationship. Larrakia through their involvement in the native title process were increasingly gaining legitimacy through the advocacy of the NLC, but more critically through the corporatisation of the Larrakia polity in the form of the Larrakia Nation. The fringe dwellers, however, were excluded from the consideration of native title, and as they came under increasing pressure from the Northern Territory government and the media, they were not supported by the NLC, ATSIC, North Australian Aboriginal Legal Aid Service, or the Larrakia Nation Aboriginal Corporation.

The fringe dwellers became increasingly politicised in response to forced evictions of Barada people from a long-term informal camp at Lee Point.⁸ The Northern Territory government rejected their request for title of the area on the grounds that the Larrakia native title claim prevented the granting of third party interests. This is despite successful negotiation of the native title process by the Northern Territory government with Larrakia to allow for the construction of the East Arm Port and the granting of land title to Conoco-Phillips for the construction of the Wickham Point liquid natural gas plant. The negotiations in relation to these projects ultimately all resulted in positive and potentially lucrative economic outcomes for the Larrakia Nation.

The establishment of the 'Darwin Longgrass Association' by prominent Larrakia woman June Mills assisted the politicisation of the fringe dwellers (see Fig. 8.1), and also demonstrated that the informal relationship between some members of Larrakia and the fringe dwelling community still existed. However, the intense consultative load associated with development and native title, disputation within Larrakia and the disengagement of Indigenous representative organisations from fringe dwelling issues, greatly reduced the capacity of Larrakia to respond as a group and in a formal sense to the needs of the fringe dwelling community.

⁸ Barada people are from near Maningrida on the central Arnhem Land coast.

Fig. 8.1 Itinerant protestors in Darwin



Photo: Courtesy of W. Day

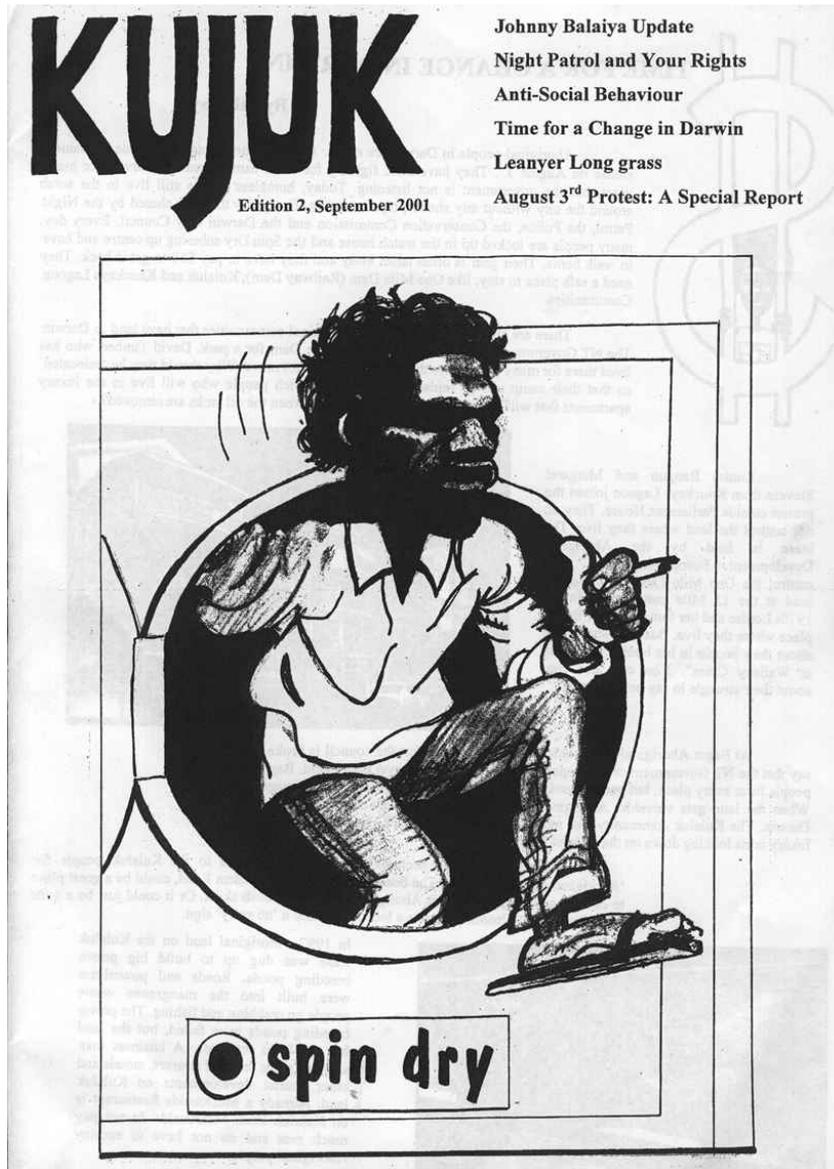
Harassment of fringe dwellers increased under mandatory sentencing laws introduced by the CLP government in 1997. A Darwin City Council 'by-law' made it an offence to sleep in a public place and attracted a \$50 fine for contravention. Under the mandatory sentencing regime unpaid fines of this nature became a property offence and attracted a mandatory jail term when brought before the courts (Howse 2000).⁹ In response to such harassment fringe dwelling communities around Darwin became increasingly politicised. The Darwin Longgrass Association, and community advocates campaigning on their behalf, were able to project positive images of fringe dwellers as 'traditional people' living off the land, both in the mainstream media and the newsletters *Longgrass* and *Kujuk* (Figs 8.2 and 8.3).

In a perverse twist, such images were incorporated into the discourse of Larrakia having lost their culture, and therefore having no claim on Darwin. Newspaper articles highlighted the assumption that Indigenous people from elsewhere utilised the natural resources of Darwin to a greater extent than Larrakia. In addition non-Indigenous Darwin residents on occasion proclaimed that they too were more engaged in the activities of hunting and in particular fishing, than those asserting native title rights. The notion of 'anti social behaviour' which became a euphemism for being black and being in town, however, was conflated

⁹ The Territory Infringement Notices Scheme which is contained in Division 2A of the *Justices Act (NT)*, was challenged by the Aboriginal Justice and Advocacy Committee (NT) which successfully sought to have the 'sleeping in public' by-law declared *ultra vires* (see Howse 2000).

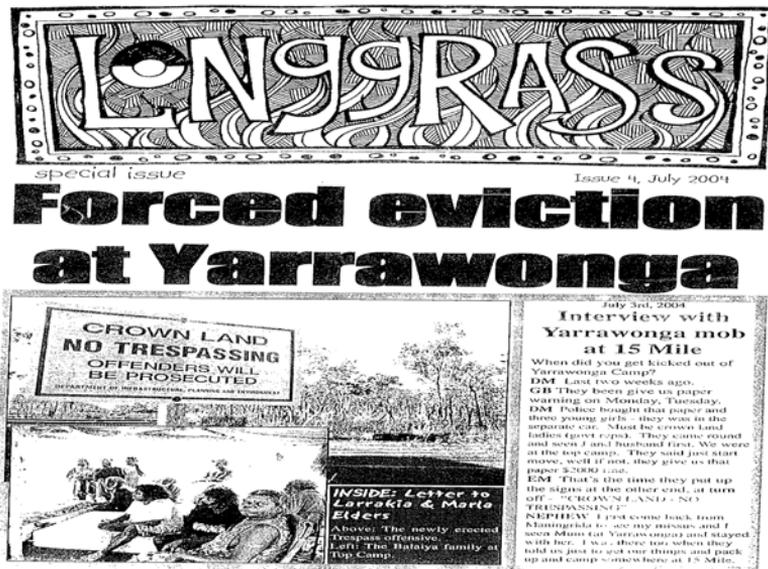
by media and politicians with native title to create negative representations of Larrakia and fringe dwellers alike. Chief Minister Shane Stone, well known for his opposition to Larrakia claims in the Darwin area advocated 'harsh retribution' for itinerants, and stated that Aboriginal people with drinking problems deserved to be monstered and stomped on.¹⁰

Fig. 8.2 Cover of *Kujuk*



¹⁰ ABC, 'Home calls NT itinerants', *The 7.30 Report* 6 January 2004, ABC, Canberra.

Fig. 8.3 Cover of *Longgrass*



The Larrakia claim over Darwin

In 1997–98, due to a backlog in native title claims nationally, the Federal Court and the National Native Title Tribunal (NNTT) both received a dramatic increase in funding, which resulted in the Larrakia claim over Darwin being called forward for hearing. Given the levels of disputation within Larrakia, and the divisive history of the Kenbi Land Claim, a negotiated or mediated settlement was arguably the preferred course of action by the applicants. As noted a number of commercial deals had already been negotiated on the basis of claims lodged but not heard, including the lucrative Darla urban development agreement in Palmerston and an agreement in relation to the Wickham Point gas plant (NLC 2003: 46).

Hearing of traditional evidence in the major claim over 216 areas of land and waters in and around Darwin began in September 2002. The claim, and in particular the evidence of traditional owners was hotly contested by the Northern Territory government and the Darwin City Council. Justice Mansfield stated, notably:

The respective positions of the parties could hardly have been more diametrically opposed, save for the realistic acknowledgments the applicants made in respect of the extinguishing effect of a number of those past legislative and executive actions (Mansfield J 2006: [30]).

And later:

The issues on the hearing have been hard fought. Apart from facilitating the course of the evidence, the Territory and the other respondents have made no admissions (Mansfield J 2006: [59]).

Constructions of Larrakia as having lost their traditions and having no system of law that had plagued Larrakia in the Kenbi Land Claim and throughout the 1990s, were used to aggressively refute the evidence of Larrakia witnesses, and in some cases humiliate them. The historical record, with its many assertions of Larrakia 'dying out', and no longer practicing 'traditional culture' ultimately outweighed the oral evidence of contemporary Larrakia people.

As a mark of the government's opposition to the claim, and as an indication of the belief that the claim would be highly contestable, the Northern Territory government submitted a respondent anthropologist's report, which had never occurred in a Northern Territory native title claim before. Given that the hearings were public, reports of the evidence have seeped into the public domain. Ken Parish, an ex-ALP politician, local barrister and academic posted the following on his Northern Territory University sponsored blog site, *The Parish Pump*:

I recently sat through significant parts of the 'traditional' evidence in the Larrakia native title claim. I don't know what the judge will make of it, but I must say I found most of it totally unconvincing. Even I knew more about Aboriginal culture, law and tradition than most of the Larrakia 'traditional' witnesses! (Parish 2002).

Larrakiya identity co-opted

The Martin ALP government, which came to power in 2001, was at pains in its first term to distance itself from the negative approach to Indigenous affairs of the previous CLP government. In seeking to address the issue of 'antisocial behaviour', rather than jail itinerants, it sought to engage the Northern Territory Indigenous community leadership, and in particular the Larrakia as 'traditional owners' of Darwin, in the 'Community Harmony Project'. This program focused on alcohol rehabilitation, increased community or night patrols, and repatriation of itinerants to their home communities. The Larrakia Nation received a grant of \$500 000 to facilitate its involvement. The Larrakia Nation, in consultation with its membership, established a behaviour protocol for visiting Indigenous people that is widely advertised around Darwin in the form of posters in shop windows and signs in known 'anti-social behaviour' hot spots, that proclaim Larrakia authority over Darwin on the basis that they are the 'traditional owners'. Despite opposing prior Larrakia claims to the Darwin area the Northern Territory government utilised opportunistically the corporate identity of Larrakia as the 'traditional owners' of Darwin as a way of ridding the city of homeless Indigenous people.

Conclusion: an uncertain identity

While there have been positive economic outcomes for the Larrakia Nation from this process, the future is by no means clear. Chief Minister Martin has indicated that a dialogue between the government and Larrakia is ongoing, but that the government 'is unlikely to consider handing over land outside the court process'.¹¹ Using representations of Larrakia as 'traditional owners' and custodians of the Darwin area, the government through the Harmony project has made Larrakia complicit in the demonising of the fringe dwelling population of Darwin, while giving Larrakia no formal recognition of their rights within their country.

In the 2005 election campaign, in a move clearly aimed at the conservative voters of Darwin's northern suburbs, the Martin government retreated from the initiatives of the Harmony Project and campaigned on the basis of increased law and order. Election advertising material indicated that existing community night patrols would be replaced by police patrols to combat the issue of anti social behaviour and 'itinerants'. A key element of the campaign was the pronouncement that habitual drunks would face jail if they refused rehabilitation. The ALP election campaign was widely reported as being focused on race (Eastley 2005; Murdoch 2005),¹² and even attracted the critique of the CLP opposition that the campaign was 'chasing the redneck vote'. The *Alcohol Court Act 2005* (NT) and the *Antisocial Behaviour (Miscellaneous Amendments) Act 2005* (NT) passed subsequent to the election establishes a mechanism for the placing of prohibition orders on habitual alcohol abusers. However, rather than making habitual alcohol use the offence, the legislation allows for such orders to be made when an offence is committed.

Justice Mansfield's decision recognises that a Larrakia polity exists and that the process of 're-establishing traditional laws and customs adapted to the modern context ... is enriching the lives of Larrakia people, and of the Darwin community (Mansfield J 2006: [836]), a sentiment also conveyed by Norman Fry, CEO of the NLC:

Everybody in the Northern Territory ... all know who the Larrakia are. They are not invisible people, they are here ... To expect that people would remain stagnant, in some sort of time capsule, is quite silly. The Larrakia people are the heart and soul of this place.¹³

¹¹ ABC, 'Larrakia dialogue ongoing despite native title ruling, says Martin', *ABC News Online* 17 April 2006, ABC, Canberra.

¹² For example Eastley, T. 'Proposed anti-social laws in NT to make it tougher for long grassers—featuring David Gulpilil', *AM* 28 August 2005, ABC, Canberra; and Murdoch, L. 'The race is on', *Sydney Morning Herald* 17 June 2005.

¹³ Cited in Michelmores, K. 'Larrakia fail in bid for Darwin native title', *National Indigenous Times*, Issue 103, 20 April 2006.

Justice Mansfield's decision was unsuccessfully appealed before the Full Bench of the Federal Court in 2006. The negative decision of the Full Bench is an emphatic blow to the assertions of Larrakia rights to their traditional estate within the city of Darwin. Negative depictions of Larrakia generated by successive governments in their opposition to the claims process and the pursuit of political gain have served to position Larrakia somewhere between the dominant white society of Darwin, and idealised notions of 'traditional Aborigines', a place that for many Larrakia is all too familiar.

References

- Carey, C. and Collinge, A. 1997. 'Larrakia native title: the long march', *Indigenous Law Bulletin*, 4 (2): 21.
- Commonwealth of Australia 2001. *Senate Official Hansard*, No. 2, 2001, 39th Parliament, First Session, Eighth Period, Parliament of Australia, Canberra.
- Day, W. 1994. *Bunji: A Story of the Gwalwa Dariniki Movement*, Aboriginal Studies Press, Canberra.
- Day, W. 2001. *Aboriginal Fringe Dwellers in Darwin, Australia: Cultural Persistence or a Culture of Resistance?* PhD Thesis, University of Western Australia, Perth.
- Gibbins, R. 1988. *Federalism in the Northern Territory: Statehood and Aboriginal Political Development*, North Australia Research Unit, The Australian National University, Darwin.
- Glaskin, K. 2005. 'Innovation and ancestral revelation: the case of dreams,' *Journal of the Royal Anthropological Institute*, 11 (2): 297–314.
- Gray, J. 2000. *The Kenbi Land Claim, Report of the Aboriginal Land Commissioner*, Australian Government Publishing Service, Canberra.
- Hobsbawm, E. and Ranger, T. (eds) 1983. *The Invention of Tradition*, Cambridge University Press, Cambridge.
- Howse, C. 2000. 'Towards a dealing just and kind', *Alternative Law Journal*, 25 (3): 108–30.
- Keesing, R. M., and Tonkinson, R. (eds) 1982. 'Reinventing traditional culture: the politics of Kastom in Melanesia', *Mankind* (Special Issue) 13 (4): 297–399.
- Mansfield, J 2006. *Risk v Northern Territory of Australia*, FCA 404, 13 April 2006.
- Memmott, P. and Fantin, S. 2001. 'The Long Grassers': *A Strategic Report on Indigenous 'Itinerants' in the Darwin and Palmerston Area*, Version 2, Vol.

- 1, Aboriginal Environments Research Centre, University of Queensland, Brisbane.
- Newman, G. 1997. 'Northern Territory election 1997', *Research Note 7 1997-98*, Parliamentary Library, Parliament of Australia, Canberra.
- Northern Land Council (NLC) 2003. *Northern Land Council Annual Report 2002-2003*, NLC, Darwin.
- Northern Territory Government 1994. Debates: Sessional Committee on Constitutional Development, Seventh Assembly First Session 27 June 1994, *Parliamentary Record No: 1*, Northern Territory Government, Darwin.
- Olney, J 1991. *The Kenbi Land Claim: Report of the Aboriginal Land Commissioner*, Australian Government Publishing Service, Canberra.
- Otto, T, and Pedersen, P. (eds) 2005. *Tradition and Agency: Tracing Cultural Continuity and Invention*, Aarhus University Press, Aarhus.
- Parish, K. 2002. *The Parish Pump* [blog site, Darwin], available at <<http://www.ntu.edu.au/faculties/lba/schools/Law/apl/blog/stories/gen-law/170.htm>>. Accessed 16 October 2005.
- Parsons, D. 1998. 'Kenbi Land Claim: 25 Years On', *Indigenous Law Bulletin*, 4 (8): 15-17.
- Povinelli, E. A. 1993. *Labor's Lot: The Power, History, and Culture of Aboriginal Action*, University of Chicago Press, Chicago.
- Stone, S. 1998. *Eighth Assembly First Session 17/02/98 Parliament Record No.3*, Northern Territory Government, Darwin.
- Sutton, P. 1998. *Native Title and the Descent of Rights*, National Native Title Tribunal, Perth.
- Wells, S. 2003. Negotiating Place in Colonial Darwin. Interactions between Aborigines and Whites 1869-1911, PhD Thesis, Sydney University of Technology, Sydney.
- Williams, G. 1997. 'Push polling in Australia: options for regulation', *Research Note 36 1996-97*, Parliamentary Library, Parliament of Australia, Canberra.
- Woodward, A. E. 1973. *Aboriginal Land Rights Commission: First Report*, Australian Government Publishing Service, Canberra.
- Weiner, J. and Glaskin, K. (eds) 2006. *Custom: Indigenous Tradition and Law in the 21st Century*, *The Asia Pacific Journal of Anthropology*, Special Issue 17 (1).