2. *Yolngu* sea rights in *Manbuynga ga Rulyapa* (Arafura Sea) and the Indonesian connection

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**Introduction**

In October 1994, *Yolngu* (north-east Arnhem Land Aborigines) at Galiwin'ku, Elcho Island held a press conference and made a televised call for an indigenous marine protection strategy for Northern Territory coastal waters between Maningrida and Numbulwar and to the north to the Australian-Indonesian boundary. In this zone, the *Yolngu* said, were sacred Aboriginal totems, song cycles, ceremonies and the pathways of creational beings. The aim of the call was to initiate discussion on the need to combine both Aboriginal and non-Aboriginal knowledge in the management of the Arafura Sea, which the *Yolngu* call *Manbuynga ga Rulyapa* and for Aboriginal people to progressively reassume responsibility for various levels of management of the area, based on their customary laws.

The word *Manbuynga* refers to *yirritja* moiety waters in north-east Arnhem Land and *Rulyapa* to *dhuwa* moiety waters. The steering committee (*ginytjirrang mala*) established to represent *Yolngu* interests in *Manbuynga ga Rulyapa* includes members of a range of groups from both of these moieties, including the Wangurri, Gumatj, Dhalwangu, Gupapuyngu, Ritharrngu, Djambarrpuynugu and Galpu clans. Only two groups have dreamings exclusively from the sea and representatives of these act as spokespersons for the *Yolngu* as a whole. They are Terry Yumbulul of the *yirritja* moiety Warramiri (Budalpudal) clan, and Keith Djiniyini of the *dhuwa* moiety Djambarrpuynugu (Wutjara) clan.

A draft proposal was released by the *ginytjirrang mala* at the press conference, and the following recommendations were put forward:

- Australian maps should refer to the area in question as *Manbuynga ga Rulyapa*;
- the Australian Government should consult with *Yolngu* about Aboriginal interests in the sea;
- a bilateral co-management arrangement with Indonesia should be pursued by the Australian government and *Yolngu*;
- the marine strategy should be based on *Yolngu* management principles;
- government recognition of *Yolngu* sea laws;
• Yolngu should set minimum safety standards for ships traversing Manbuynga ga Rulyapa;
• Yolngu should own and operate their own fishing enterprises; and
• mining proposals for the sea should proceed according to Yolngu law.

It was suggested that if the call was ignored, the Yolngu may attempt to claim the entire Arafura Sea under the Native Title Act 1993 (NTA), and force the Northern Territory Government to the negotiating table.

Fig 1. Manbuynga ga Rulyapa – the Arafura Sea.
This paper provides one perspective on *Yolngu* rights to the coral reef, the sea bed and open sea north into what is now Indonesia. It is from the *Manbuynga* or *yirritja* moiety viewpoint. An entirely separate paper would be needed to delineate the *dhuwa* moiety *Rulyapa* perspective. I look in detail at the beliefs of the immediate past leader of the Warramiri clan, David Burrumarra M.B.E. (McIntosh 1994a).2 The *Indigenous Marine Protection Strategy* (Ginytjirrang 1994) was launched at his funeral. According to his son, Terry Yumbulul, it was Burrumarra's lifelong wish that Aboriginal rights to the sea be acknowledged by Australian and Northern Territory authorities. Burrumarra believed that *Yolngu* should not only be consulted in matters to do with the sea, but also play an active role in the management of sea resources.

I conclude the paper by detailing the response of the Northern Land Council to the release of the draft strategy and then give an overview of relevant government legislation which might come into play in making the marine proposal a reality. The overall aim is to advance the view that a native title claim over the Arafura Sea has every chance of being accepted for deliberation by the National Native Title Tribunal, and to encourage interested parties in reaching a negotiated settlement on the issues raised and to bring *Yolngu* into the decision-making process without the necessity of a lengthy and expensive court hearing.

**David Burrumarra and the sea**

The Warramiri leader, David Burrumarra, never used European terms such as 'ownership' when describing his relationship with the sea. He spoke instead about 'holding' the sea through *marr*, which Thomson (1975) equated with *mana*. *Marr* is that feeling of confidence or certainty with regard to one's belief and purpose in life and is directly linked to the possession of sacred objects and knowledge associated with particular tracts of country, including the sea (see also Keen 1995: 512).

When pushed on the question of ownership, Burrumarra said that the *Yolngu* were custodians of laws associated with the 'real' owners of *Manbuynga ga Rulyapa*, the totemic whale and octopus creational beings. Non-Aboriginal Australians had no say at this level and were viewed as strangers or interlopers in the eyes of these ancestors. It was Burrumarra's firmly held belief that Aborigines never relinquished 'traditional' rights to Europeans following colonisation. Neither were such rights forfeited to Macassan (Bugis, Macassarese and Sama Bajau) fishermen who had been visiting north-east Arnhem Land at least one hundred years before the arrival of the English.
The reality of the world however is that Aborigines are often in a position of powerlessness in relation to the non-Aboriginal 'other'. In discussions with government authorities, Burrumarra tried to encourage the view that any business involving the sea should 'go through' the Yolngu, that is, it should be a matter of negotiation. He saw a need for some form of alliance or partnership so that sea resources could be protected for the enjoyment of future generations of all Australians. His call was largely ignored.

Burrumarra's feelings on belief in the sea were summed up in his often quoted view that 'What gold is to the land, the whale is to the sea.' With such a statement, Burrumarra of course signalled the fact that the Yolngu approach to the sea was of a different order to that of non-Aborigines. At one level, Aboriginal interest was seen to be of a spiritual order, whereas non-Aboriginal interest was primarily economic. At another level, the material and social benefits that non-Aborigines enjoy as a result of the exploitation of Aboriginal land in the form of mining, were seen to have their equivalent in ritual practice associated with Aboriginal belief in the whale. Belief in the whale, the 'highest' of sea totems and most redolent with meaning, was the foundation of the wealth of sea people, Burrumarra believed. The stories were 'too expensive' to talk about, in any detail, in anything other than a ceremonial setting.

The Mirrinyangu (whale) was seen to be a symbol of both local and universal significance. Just as the Gumatj Aboriginal population is said to have 'grown up' at that place where the Wangarr or Dreaming crocodile built its nest; or Wangurri and Guymilili peoples where the Gomolo sea bird built its; or the Ritharrngu emu (Wurrpan) layed its eggs; Warramiri Yolngu 'grew up' where the totemic whale beached itself on Aboriginal land at the dawn of time. The whale is understood to be a product of the salt water itself and the movement of the tide is indicative of the movement of the ancestral whale being. The Warramiri believe themselves to be associated with all places that this being travels to and, as I detail later, is a symbol which connects coastal peoples in northern Australia and Indonesia.

Reconciling what Burrumarra described as the sea heritage of the Warramiri clan with what has been written on the subject of Yolngu belief generally is no easy task. This is primarily because of the land-based focus in descriptions of the legacy of the major Yolngu moiety ancestral beings Lany'tjun and Djang'kawu (Allen 1994). At first glance, the Warramiri, as a sea people, appear to be something of an anomaly in the system. For instance it is written that when the yirritja moiety was originally formed, each yirritja collective was allotted land, totems, ceremonies, and ceremonial objects by Lany'tjun or one of his emissaries (Berndt and Berndt 1975). Yet according to Burrumarra, the Warramiri have nothing from Lany'tjun in their history. While he sometimes contradicted himself, the point Burrumarra stressed above all others was that the Warramiri
came from the sea and *Lany’ tjun* and other related moiety ancestral figures are not linked to this domain.

*Lany’ tjun* is associated with totems from the land and coastal fringe, but the Warramiri heritage centres on deep water and the law here focuses on the creational being *Ngulwardo*, the ‘old man’ or ‘king’ of the sea. *Ngulwardo* is the creational entity responsible for the emergence of various *yirritja* sea creatures and also Warramiri humans. Cawte (1993: 20–1) describes *Ngulwardo*’s form thus:

The God of the Reef ... *Ngulwardo* ... is formed like a man, but ... senses like a fish through currents deep in the sea, currents from far-off places.

*Ngulwardo* is the ocean floor bedrock and coral reef, and is the basis of Warramiri rights to lands associated with various sea totems under its direction, and of the sea itself. Burrumarra’s private collection of paintings included one of *Ngulwardo*. He was depicted as an aged man with fishing lines (with shell hooks) in each hand, catching the Warramiri totem *Yarrwadi* (queenfish).

The boundary between salt and freshwater is the meeting place of the two major branches of *yirritja* moiety law. Burrumarra described the difference between the domains in this way:

What is the difference in taste between the barramundi [a symbol of *Lany’ tjun*] and the mullet [*Ngulwardo*]? One comes from the creek and the other from the open sea. Where does this difference come from?

Most Warramiri totems have a mediating role between these ‘spheres of influence’; that is, between the land and coastal fringe and the open sea. For example, we have the story of how the barramundi wanted to travel out to the islands off the coast and the deep water, but was prevented from entering *Ngulwardo*’s territory by Warramiri totems. As Warner (1969: 34) reports:

... in the days ... when totems walked the earth as men .... Barramundi came from the Wangurri country and tried to go on through to the other clans, but the whale and crayfish totems prevented him; in his efforts to force his way through, he smashed himself into many pieces which flew for many miles and landed in the territories of the other totemic clans in his phratry group [that is, Wangurri, Guyamilili, Wolkara etc] and made their totemic water holes.

*Lany’ tjun* has no direct role in *Ngulwardo*’s territory. *Lany’ tjun*’s law terminates on the coast, and the two bodies of law are completely separate, except for the fact that *Ngulwardo* is also *yirritja*.

**The transformations of *Ngulwardo***

*Ngulwardo* communicates directly with Warramiri *Yolngu* as they travel by canoe or swim in deep water or over coral reefs and also, indirectly,
through an intermediary, the totemic being Marryalyan (Cawte 1993). This being works in a 'laboratory' (to use Burrumarra's terminology) under the coral reef, transforming itself into the various *yirritja* creatures that inhabit the seas, such as the Limin (squid), Manda (octopus), Mardi (crayfish), Nyunyul (cuttlefish) and also the Matjurr (flying fox) and Luthay, the sea/land/sky snake. Marryalyan is also deemed to be the force which drives the seasons, initiating and terminating the 'wet' and the 'dry' (Cawte 1993: 74).

While manifestations of Ngulwardo and Marryalyan are land creating beings in their own right, their influence is understood to extend well out to sea. The Manda (octopus totem), for instance, is linked to various islands in the English Company group and also to the Wessel Islands. It is deemed to be the guardian of the sea and can stretch out its tentacles well over the horizon in order to bring relief to those in distress (Burrumarra n.d.). Sacred octopus sites are located both in waters on the Australian coast and up to a hundred kilometres to the north of the Wessel Islands. In a similar way, the Matjurr (flying fox), also a transformation of Marryalyan, is linked to sites on the Australian mainland and to reefs off the southern coast of Irian Jaya. Flying foxes are said to travel to the north each year to this land of plenty where they get fat.

**Mirrinyungu – the whale**

For Burrumarra, the whale was the major totem for the Warramiri clan. Though the whale's bones were said to come from the coral reef which linked it with Ngulwardo and it was *yirritja*, which linked it with Lany'tjun, the whale was not associated in a creational sense to either of these. As Burrumarra reported, it was a product of the sea itself. It was salt water given physical form. It was a symbol of the sea (Warner 1969: 353). Its beaching was said to be a blessing for the land (McIntosh 1994a: 77). When Yolngu followed this law alone and not the law of the land, Burrumarra said, they could call themselves Nyomba, meaning 'living for the whale, living for the sea'.

The Mirrinyungu is associated with the creation of various tracts of land, most notably islands and reefs off Cape Wilberforce, Cape Wessel and Cape Arnhem. References to the actions of the totemic whale ancestor appear in numerous contexts in the anthropological literature. In a discussion of the *yirritja* Ngaara ceremony, Warner (1969: 350) describes how Yolngu performers go through the motions of whales copulating. There are also myths of creation associated with the beaching of a whale in Munyuku clan territory (McIntosh 1995a): stories of how the dugong got its tail from the whale (McIntosh 1995a): of Yolngu being swallowed by
the whale and being regurgitated as 'white' men (Groger-Wurm 1973: 127), and so on. Warner (1969: 350) also notes that the whale is associated with the *yirritja* moiety land of the dead, carrying the spirit of the Warramiri dead on their backs to that place.

Most interestingly, there are also a considerable number of stories which suggest early contacts between Aborigines, Sama Bajau (sea nomads) and others, who Burrumarra referred to as 'whale hunters'. For example, he relates stories of a hunting party being towed onto the Arnhem Land coast by a harpooned whale; dark-skinned people mysteriously arriving on the coast and living with Aboriginal people; joint ownership of sea laws with these visitors, and ceremonies held in common on the beaches of Cape Wilberforce, in Warramiri territory (McIntosh 1995a).³

Waves of contact

The Aboriginal world view, if described in terms of sets of totems and their creational activities, suggests timelessness. The resulting picture of *Manbuynga* is of a body of water for which the *Yolngu* have a sacred bond via beliefs associated with the coral reef (through *Marryalyan*), the sea floor (*Ngulwardo*) and the salt water itself (whale). What such a depiction fails to take into account is the fact that Burrumarra and others with interests in the Arafura Sea, firmly believed that it was the historical role of *yirritja* moiety coastal peoples such as the Warramiri and Gumatj to act as mediators on behalf of all *Yolngu* vis-a-vis traders from the north. The Warramiri 'sea identity' must therefore be seen as being created, sustained and affirmed over the centuries as *Yolngu* came into contact with others, not as static.

In Burrumarra's view, there were three waves of external contact in what might problematically be called post-Dreaming times, prior to the arrival in Arnhem Land of Japanese and Europeans this century. The reality or otherwise of these divisions is not an issue here, though as I show, there is information to support, in part, some of Burrumarra's claims.⁴ What is important is the fact that *yirritja Yolngu* have ceremonial links to places in 'deep water' as far as and beyond the Indonesian border, and are asserting their right to speak for them.

The first and most significant wave of contact in terms of sea belief was referred to by Burrumarra as the 'whale hunters'. In Aboriginal songs and in personal names, they are known variously as *Wurramala, Dhurritjini, Babayili, Djamulapu, Gelurru* and so on. These were 'black' people and were said by Burrumarra to have been brothers for the Warramiri. In an examination of what little information there is on this subject, McIntosh (1995b) suggested that the significance of this body of
myth/history was twofold. In terms of history, it was speculated that the narratives emerged as a result of fleeting contacts with the people of eastern Indonesia (Maluku) and also Sama Bajau who accompanied Macassans on their trepanging voyages to Australia in the 1700s and 1800s. In terms of myth, they represented an extension of pre-existing whale and sea beliefs.

Burrumarra said that both Aborigines and the first visitors were followers of the ceremonial laws of the whale and octopus, but from different 'sides':

What the whale hunter does with his spear, we do with *yidaki, manikay* and *bilma* (Didgeridoo, song and clapsticks) .... They are in our history and we are in theirs.

There was a perceived unity between peoples in the one law, the law of *Nyomba*. Burrumarra said. At other times, Burrumarra said that the visitors were more 'on the law' than the Warramiri. These people actually lived on the water, whereas the Warramiri lived on the sea-land margin and *yirritja Yolngu* acknowledged their ritual superiority. For this reason, Burrumarra referred to these 'pre-Macassan' voyagers by the Bahasa Indonesian title of *(p)bunggawa* (leaders).

The *Bayini*, the reported second wave of contact, were also *bunggawa*. Burrumarra said, but for the land, and their legacy in narrative and ceremony revolves around the nature of relations between external, colonising forces and Aborigines (McIntosh 1995c).

The third wave were the Macassans trepangers. According to Burrumarra, these people did not respect Aboriginal rights and this is reflected in what appear to be 'timeless' myths of rejection. In often obscure narratives, the totemic dog, honey bee, scrub fowl and sawfish confront or do battle with 'totemic' Macassans over access to Aboriginal land and sea. Even the trepang, a sedate sea floor dwelling slug is transformed in myth into an ancestral being which has the power to destroy the boats of these unwanted visitors (Mountford 1956-64: 282).

A perspective gleaned from a study of such myths (McIntosh 1994b) and discussions with Burrumarra suggests that if the outsider was not prepared to follow *Yolngu* law, whether on the land or sea, then they would be rejected. On this basis, Burrumarra lumped the Macassans in with Japanese and Europeans in the one class; they were all breakers of Aboriginal law.

**North into Indonesia**

For the purposes of investigating the *Yolngu* claim that they have interests far out to sea, in some cases in areas which in all probability are now a part of Indonesia, we need to focus not only on the 'timeless' totemic beliefs of
Ngulwardo and Marryalyan, but also look at stories of shared belief in the whale and octopus by Aborigines and 'whale hunters', and narratives associated with the Bayini and Macassans.6

Undoubtedly, certain aspects of Warramiri law were created, transformed or extended as a result of the regular journeys that clan members made with Macassans between Arnhem Land, Sulawesi and other ports in proto-historic times (Macknight 1976). One could easily imagine that travel to the north would facilitate the extension of existing ideas and on return to Arnhem Land, in collaboration with others, new perspectives on the Yolngu domain and heritage would emerge. As Watson and Chambers (1989) suggest, the making of maps by European cartographers is part of a process of appropriation of the lands of others. In a similar way, as Aborigines travelled to new places, they too brought various sites and experiences into the framework of their own law, within the supposedly unchanging tradition of the Dreaming.

Despite the fact that Burrumarra never travelled north to Indonesia himself, he was able to pass on to the current generation of Warramiri leaders extensive information about this ongoing association of Yolngu with sites in the open sea in the waters off Arnhem Land. The Warramiri repertoire includes references to vast numbers of reefs and shoals associated with the travels of the mythical whale, octopus, flying fox and the 'whale hunter'. Stories concerning the latter are the most numerous and are of three broad types:

• historical episodes of external contact and ceremonial exchange (McIntosh 1995b);

• narratives associated with the creation of sacred Warramiri emblems, sites and practices (Groger-Wurm 1973); and

• stories of the yirritja moiety land of the dead (Berndt 1948).

The fact that the Yolngu stress that there was a sense of partnership in law with the 'whale hunter' peoples in the distant past has implications in terms of the claim by Aborigines for recognition of rights to reefs and shoals in Manbuynga ga Rulyapa. Some sites in Australian coastal waters are said to be held by the Warramiri through laws associated with the 'whale hunter', but this does not mean that the 'whale hunter' 'owns' these sites. The Warramiri assert their rights in relation to other Aboriginal collectives via this law. A quite different situation arises with regard to sites some hundreds of kilometres off the Australian coast. Several of these were deemed to be the joint responsibility of Aborigines and the 'whale hunter', but it was Burrumarra's feeling that in the absence of the latter, the Yolngu alone speak for those places.7
Places associated with the *yirritja* moiety land of the dead, by their very nature, are difficult to locate in space. At various times, Burrumarra stressed that Aborigines had travelled with the 'whale hunter' to these places in the past, but at other times he said that if one went looking for them now, one would not find them. Both the people and places, he said, were now only to be found in dreams. Yet some are well-known localities; that is, Layilayi (a small island off Macassar); and Danimba (Tanimbar) and Warru (Aru), in Maluku province in eastern Indonesia (see Map 1). There are literally hundreds of names for the land of the dead, which Burrumarra said could be isolated beaches, small islands or reefs, or collections of islands.

One site of particular significance for Warramiri Yolngu is the island of Banda and variations of this word appear in narratives relating to all waves of contact. Thus, *Bandawee* is said to be a place which is symbolic of the ownership of 'traditional Aboriginal information'; that is, about the totemic whale and octopus. *Bandayil* is associated with the 'land of the dead'. *Bandaynga*, on the other hand, means 'where the big people come from'; that is, the settlement where the *(p)bunggawa* or Bayini ceremonial leaders came from. *Banda*, likewise, Burrumarra added, is a very rich place. The *Bayini* are reputed to have left something there and to have blessed it, giving it great wealth and lots of 'things'. It can hardly be a coincidence that Banda in local Maluku tradition is said to have been a blessed place, for it was the home of the nutmeg (Abdurachman 1978: 164), and the subject of attention by traders for hundreds, if not thousands of years.  

**Managing the sea**

It was Burrumarra's view that management of sites in the sea associated with Warramiri sea totems and laws was once the joint responsibility of both Aborigines and the 'whale hunter'. The presence of Macassans, Japanese and Europeans posed a threat to the maintenance of these laws, and in narratives they are uniformly rejected by totemic beings. With the 'whale hunter' there was a feeling of brotherhood, a sense of shared ownership of law, but from different 'sides'. This is the law that the Yolngu now bring to public attention in the call for an indigenous marine protection strategy. Aboriginal customary rights need to be acknowledged, Burrumarra said, and there needs to be a partnership in management of the sea between Aborigines, the Australian and Northern Territory Governments, and the peoples of Indonesia. It was so in the past and it must be in the future, according to Burrumarra.
The Northern Land Council response

The Northern Land Council response to the release of the Indigenous Marine Protection Strategy has been twofold. First, Council approval was given to engage anthropologists to investigate Aboriginal sea beliefs along the Northern Territory coast from Borroloola to the Daly River. A report of findings will be compiled and presented to the Northern Territory and Australian Governments with a request that negotiations commence on the points raised. Second, a conference was held in August 1995 bringing together representatives of the Northern Territory Fisheries Department, the Commercial Fishing Association and Aboriginal leaders from across the north coast. The aim was to highlight the value of encouraging Aboriginal and Government joint management of sea resources.9

The legislative context of sea rights

Apart from the fact that sacred sites may be declared and protected in the sea through the Sacred Sites Act, the strongest proven legislative provision for indigenous rights in Manbuynga ga Rulyapa is the Aboriginal Land Rights (Northern Territory) Act 1976 (ALRA). While it defines the seaward extent of Aboriginal land as the low-water mark, it gives the Northern Territory Legislative Assembly the power to provide for the right of Aborigines to enter and use in a 'traditional' manner, the resources within a two kilometre zone to the exclusion of all others.

To establish such a sea closure, application is made under the Northern Territory Land Act 1978. The problem with this procedure, when seen in the light of the Manbuynga ga Rulyapa proposal, is that existing fishing licences are not affected; there is no provision for Aborigines to utilise resources in a commercial fashion; and there is little opportunity for Aboriginal populations to participate in regional planning and management decision making.

The Australian Nature Conservation Agency (ANCA) has an interest in establishing a marine park in the seas off eastern Arnhem Land. Legal opinion has it, however, that the National Parks and Wildlife Conservation Act 1975, which would be brought into play to facilitate such a move, is also problematic in terms of facilitating joint management of waters. Similarly, the Northern Territory Parks and Wildlife Conservation Act 1983 would need to be amended if Yolngu rights to the Arafura Sea were to be acknowledged. As it stands, to declare Manbuynga ga Rulyapa a marine park under this law would result in all significant power being retained by the Conservation Commission of the Northern Territory and not Yolngu.
Possibly the only way Aboriginal interests will be recognised is by claiming native title over the entire Arafura Sea. The NTA extends to all waters over which Australia asserts sovereign rights; that is, out to the 200 mile limit, though this interpretation has yet to be legally tested. ‘Waters’ in the NTA, includes the sea, the sea bed or subsoil under it, and the airspace above. Such waters may only be possessed under ‘traditional’ Aboriginal law by Aborigines who have a connection with the area in question. The word 'traditional' is problematic. As in the ALRA, it assumes that Aboriginal belief is static and tends to disregard the long history of contact and trade between Aborigines, Macassans and others.

The success or otherwise of any native title claim over the Arafura Sea will depend on the resolution of legal issues to do with claimable sea areas under the NTA, and on the extent of evidence of Aboriginal knowledge and use of the sea. With sufficient data, native title rights and interests could amount to legal recognition as a form of full beneficial ownership. In other cases, it may be that the courts hold that Aboriginal people only have a right to go hunting or fishing, but not to exclude non-Aboriginal people, (that is, a non-exclusive usufructuary right). As it stands, there is no single body of legislation which can facilitate the wish of Yolngu to play a significant role in the management of Manbuynga ga Rulyapa. It may be that a strategic combination of sea closures, sacred site declarations in the sea, and native title claims may need to be pursued. The process is long and costly, and for that reason the Preamble to the NTA is intended to encourage negotiated settlements. One benefit of lodging a native title claim is that the Northern Territory Government can be required to hold a conference with the various parties with interests in the area, with the aim of achieving some form of agreement. Without such a claim, there is little motivation for the Government to enter into negotiations at all.

Conclusion

This paper presents one perspective on yirritja moiety interests in Manbuynga, that of the immediate past leader of the Warramiri clan, David Burrumarra. He is seen as the father-figure of Yolngu sea rights. According to Burrumarra, Warramiri Yolngu have traditional laws associated with the sea bed, the coral reef and the open sea which parallel the land-centred laws of the major moiety creational beings. In terms of historical usage, there is evidence that Yolngu traversed the waters of Manbuynga ga Rulyapa and beyond both of their own accord and with Macassans and others. Of particular significance is the presumption by Burrumarra that Aborigines and ‘whale hunters’, the people of the north,
were followers of the one dreaming, that of Nyomba, and that the waters of Manbuynga were jointly managed by the two.

Contemporary knowledge of sites and related myth and ceremony relating to the Arafura Sea is considerable. Aspects of Burrumarra’s detailed knowledge have been re-oriented, re-emphasised and revealed both within Aboriginal society and the wider Australian community by the current generation of Yolngu leaders as a means of asserting Aboriginal rights over the sea, something the Warramiri leader had long strived for. Yolngu are asserting the right to partake in the management of the Arafura Sea according to their customary law. The call for recognition of Yolngu rights may need to be tested in the courts, but it is to the advantage of all parties with interests in the sea to begin the process of negotiation and bring Aboriginal people into the decision-making process on equal terms.

Notes

1. Yolngu society is exogamous and patrilineal. Social organisation is marked by the presence of two moieties, the dhuwa and the yirritja. The world (land, people, species) is equally divided between the two.

2. The author was resident on Elcho Island from 1987 to 1994 and in that time completed a biography of Burrumarra. Post-graduate research was also carried out on Warramiri cosmology, and quotes referred to in this paper are drawn from this research. The author is now employed as an anthropologist with the Northern Land Council, and is doing preliminary work relating to a possible native title sea claim over the Arafura Sea.

3. As I detail later, Nyomba (Umboh) is an expression for the sea laws also followed by the Sama Bajau (sea nomads) of the southern Philippines (Bottignolo 1995) and also Indonesia (N. Stacey, pers. comm. 1995). According to Burrumarra, Aborigines were ceremonially united with this group, colloquially termed ‘whale hunters’, in the distant past.

4. For a detailed examination of this subject, see McIntosh 1995a.

5. Dhurritjini and Djamulapu (Djamamapun) are known Sama Bajau peoples. The former were associated with the islands off Macassar (Ujung Pandang) and the latter now dwell in the Sulu Sea between Borneo and the Philippines.

6. It is acknowledged that sea levels in Manbuynga ga Rulyapa have changed significantly over the past 5,000 years. The coastline was at least 200 kilometres to the north of its present location at various stages in the past. While a number of sacred sites in the sea are spoken of as once lying above water, further research needs to be undertaken with regard to sites well off the coast.

7. Sama Bajau from Roti have access to places such as Ashmore Reef, off the Western Australian coast, but frequently have their boats and catch forfeited for resorting to non-traditional fishing practices. The Mabo case held that existing indigenous rights continued after colonisation, but whether or not this applies to non-nationals was not
examined. Legal advice suggests that the Mabo principle applies only to Australian Aboriginal and Torres Strait Islander people but that the Sama Bajau may have an arguable though weak case if they attempted to claim native title over these reefs. They could apply, but even if successful, their rights would be very limited.

8. For Macassans in the early years of the trepang trade, Banda was a prominent stopover point on the journey from Macassar to north Australia, or Marege, as it was known. Different groups of Yolngu visiting the island over a period of say 200 years or more might explain such variations.

9. The Northern Territory Government considers all living sea resources to be the property of the entire Australian community. It rejects the Yolngu view that totemic species are owned by various Aboriginal collectives. While both sides held fast to their views, the meeting was a milestone as it was perhaps the first step in a process that will eventually see Aborigines taking some control of their ancestral waters.