

## Community-Based Management of Saltwater Country, Northern Australia

**SAMANTHA MULLER** *ABSTRACT* Dominant social and political constructions of 'saltwater' assume marine environments to be common property resources, justifying jurisdiction and management responsibilities by the State. However, in northern Australia 'saltwater country' is gaining recognition as a cultural landscape with customary law defining ownership and management rights and responsibilities. Samantha Muller looks at the role of the Dhimurru Sea Country Plan in asserting community-based management strategies through a self-defined planning process founded in local aspirations and concerns. She argues that in challenging statist discourses of saltwater ownership, management and planning, Dhimurru offers insights for 'post-development in practice'.

**KEYWORDS** *colonization; commons; decision-making; cultural transformation post-development*

### Introduction

'Water' and its role in development has been questioned and challenged beyond conceptions of water as a value-neutral physical element to its recognition as a strategic resource often controlled by states. New holistic perceptions of water acknowledge the human and cultural ways in which water is valued in our lives and therefore 'cultural water' has become a topic of debate (Lahiri-Dutt, 2006). Western cultural relationships with 'saltwater', oceans and its resources have been fiercely protected by concepts of *mare liberum* or 'freedom of the seas' in which there are no individual property rights (Russ and Zeller, 2003). Colonization in Australia has used dominant western values of *mare liberum* to erase customary sea rights from the public imaginary. Consequently, the state has justified jurisdiction and management of the 'commons' of oceans for commercial benefit and conservation. Marginalized groups, including Aboriginal traditional owners, have been excluded from decision-making processes despite attempts to 'include' the 'participation' of Aboriginal people. In the Northern Territory of Australia, most attempts have failed to secure satisfactory outcomes or to shift power balances in these resources (Scott, 2003; NOO, 2004; Yunupingu and Muller, in prep). As such, 'saltwater country' and its resources have historically remained outside the assigned jurisdiction of 'development' opportunities for Aboriginal traditional owners. However, Aboriginal traditional owners have successfully been challenging legal and

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managerial jurisdictions for sea country to assert their rights and interests in sea country and its role in their own definitions of 'development'.

Yolngu Aboriginal traditional owners from northeast Arnhem Land in the Northern Territory have won the first stages of their legal battle for recognition of their connection to sea country. For Yolngu, there has never been a separation between land and sea. There has certainly not been the sort of separation that characterizes Western ontological separation of land and water based on a biblical act of creation (Howitt, 2001) and privileged in *mare liberum*. Customary rights and responsibilities for managing areas that Aboriginal traditional owners refer to as 'country' have always included the sea and its inhabitants (Buku-Larrnggay Mulka Centre, 1999, Yunupingu and Muller, in press). In March 2007, the Federal Court of Australia upheld an appeal by Yolngu traditional owners of Blue Mud Bay against an earlier court order denying them exclusive occupation rights to the waters (*Gumana v Northern Territory of Australia*, 2007). The Blue Mud Bay decision has ensured that anyone who seeks to undertake activities between the high and low tide marks must do so in the recognition that they are working on Yolngu land (and sea depending on the tides) and need a permit to do so. Both the Northern Territory and the Commonwealth Governments seek to appeal the decision in the Blue Mud Bay case. However, the case demonstrates a shift in the recognition of the rights of traditional owners to their sea country. It is within, and as part of this changing context, that Dhimurru, a Yolngu land and sea management group, have developed their Sea Country Plan (Dhimurru, 2005). Dhimurru launched their *Yolngu Monuk Gapu Wanga Sea Country Plan* in August 2006. This plan articulates the aspirations of Yolngu traditional owners to secure resources to manage their sea country over which they have customary rights and management responsibilities, despite no formal legal jurisdiction at the time.

The plan was a mechanism for Yolngu to articulate and define their management interests in saltwater country and as such its application in

the complexity and hybrid nature of development partnerships and processes so that it 'does not deny globalization or modernity, but wants to find some ways of living with it and imaginatively transcending it' (Hoogvelt, 2001). Or as Banuri (1990: 96) suggests, the post-development agenda seeks to 'transfer the power of defining the problems and goals of a society from the hands of outside experts to the members of the society itself'. The Dhimurru *Yolngu Monuk Gapu Wanga Sea Country Plan* provides an example of post-development in practice by redefining the ways in which sea country is incorporated into contemporary life and the achievement of 'development' goals. By establishing Yolngu control as participants in the development process, such an approach

acknowledges the cultural transformation of many traditional cultures to adapt to modernity and initiate new development approaches.

### Dhimurru sea country planning as post-development?

In Northern Territory Australia, 40 percent of land and 87 percent of the coastline is owned by Aboriginal people (Sithole *et al.*, in press). Therefore, many Aboriginal groups are actively engaged in 'caring for country', managing their lands and seas. In the North, there are 35 groups that have formally declared themselves as ranger groups and are seeking to engage in developing partnerships that will facilitate employment and environmental outcomes for their homelands. Gaining recognition, respect and remuneration for their activities is a constant struggle for these groups (Muller, in press; Luckert *et al.*, in press). Of these, Dhimurru Land Management Aboriginal Corporation (Dhimurru) is an exception that has gained recognition from outside investors who seek to collaborate with Aboriginal people.

Dhimurru is a community-based natural and cultural resource management agency established by Yolngu traditional owners in 1992. Dhimurru has been successful in securing external recognition of and respect for Yolngu land and sea management roles and has formalized its management through declaring an Indigenous

Protected Area in Northeast Arnhem Land (DEW, 2007). Dhimurru manages according to its vision statement from Yolngu elders, who state that ‘the only people who make decisions about the land are those who own the law, the people who own the creation stories, the people whose lives are governed by Yolngu law and belief’ (Dhimurru, 2007). Dhimurru has expanded its management capacity and programmes to include a range of land and sea activities, including development of strong partnerships with government and other organizations. These developments have at all times sought to align with Dhimurru’s vision statement while seeking to develop productive partnerships with outside agencies.

Yolngu traditional owners have always been concerned about their sea country but have not had the resources to expand their operations to include the sea. Unlike their land, Dhimurru does not have management jurisdiction over the ocean. In August 2006, Dhimurru launched the *Yolngu wu Monuk Gapu Wanga Sea Country Plan* (Dhimurru, 2005), which articulates Yolngu aspirations and concerns with respect to managing their sea country. The plan is structured as an invitation to key stakeholders on sea country to enter into dialogue about how to develop partnerships and secure resources and support to tackle the new threats and issues confronting Yolngu sea country. The plan is founded on Yolngu aspirations and aims to identify ‘what sea country means to Yolngu, what our concerns are and how we might fix the problems as we see them’ (Dhimurru, 2005: 17).

Concepts of ‘planning’ are far from arbitrary processes in development. Escobar (1992: 132) argues that ‘no other concept has been so insidious [nor] ...gone so unchallenged’. Howitt and Suchet-Pearson (2006) argue that the conceptual basis of planning constitutes non-European thinking as irrational and illegitimate by its assumptions of linear time and bounded space. However, in the case of Dhimurru, ‘planning’ has been co-opted into Yolngu-defined concepts of time and space. The Sea Country Plan is based on Yolngu aspirations and perspectives. It is not constrained by linear timelines or outsiders’ conceptions of borders. Indeed, one aspect of the plan that some external organizations have found

challenging is that the plan does not specify the locations at which Yolngu interests in sea country begin and end. Instead, the plan acknowledges that Yolngu have interests in sea country from the coastline to the horizon and in some cases beyond and that boundaries between land and sea and within the sea are artificial concepts to Yolngu (Dhimurru, 2005: 15).

The plan is established as an invitation to stakeholders, inviting them to collaborate with Yolngu to ensure appropriate and sustainable regional development. As such, for each group it seeks to interact with, the plan identifies the current relationship, preferred directions for extending the relationships and associated necessary support. It is based on relationship and process rather than outcome focused. The plan can therefore be used to subvert traditional mechanisms of development processes – the application, acquittal and development of funds. As such, Dhimurru uses the tool of planning without conforming to mainstream ideas about what a plan should consist of, linear timeframes or defined borders of management interests. It offers a framework for recontextualizing planning into a Yolngu context, and delivering appropriate and sustainable outcomes that Yolngu can accept as ‘development’, but that others might not recognize as such.

Through the launch of the plan and associated implementation workshops, Dhimurru have developed some constructive partnerships. One example of a successful engagement relates to traditional owner aspirations to map sea country from a Yolngu perspective. The Dhimurru team engaged with a range of stakeholders to identify each group’s concerns and aspirations for mapping. This process brought together natural resource agencies who want to map sea habitat with cultural heritage and sacred site groups to collaborate and develop projects that meet the needs of external agencies but are focused on the aims and aspirations of traditional owners. As such, some agencies were able to utilize the plan to consolidate their investment through linking to their own agency aims and strategies within a Yolngu framework.

Partnerships developed throughout the planning process reside within broader power relationships,

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the obvious one being that Dhimurru needs investment of external agents to pursue their own objectives. Yunupingu and Muller (in prep) have considered in greater detail the limitations of the sea country planning process with respect to engaging non-compliant external stakeholders, issues with collating investment from a variety of sources and challenges of other community sectors that have strong political lobbys and connections. Nevertheless, as the mapping project demonstrates, there are people on both sides of the government/indigenous divide working to co-opt processes in locally meaningful ways. By engaging in productive and appropriate partnerships, based on the vision of Yolngu traditional owners, the 'centrality of the development imaginary is loosened' (McGregor, 2007: 168), creating useful opportunities for communities to pursue their own self-determined pathways.

### Conclusion

Yolngu leaders have favoured negotiation and the cultivation of mutual respect as a means of seeking formal recognition from Australian governments for their people's fundamental human rights to self-determination and freedom under the rule of law (Corn and Gumbula, 2004: 113).

Yolngu traditional owners have worked hard to develop meaningful partnerships and relationships with respect to their land and sea management practices. In the case of sea country, Dhimurru has sought to use planning as a development tool to articulate Yolngu goals and objectives and therefore as the basis of investment to securing programme and project development. It

redefines the notion of planning to be based on Yolngu ideals while presenting these within structures accessible by government agencies and other organizations.

We are happy to use the plan to speak in government language, so they can look at it understand where we are coming from. But its base is in our traditional knowledge about sea country. We have always been salt water people and have been managing our country for a long time. We want to manage this sea country in a way that we all look after it together. Our partners and our ourselves, working together to manage it better for the benefit of all Australians (Yunupingu, fieldwork interview, 2007).

Development tools can be redefined and negotiations can be developed to imagine new development futures for saltwater. 'The challenge of post-development is not to give up on development ... [but] to imagine and practice development differently' (Gibson-Graham, 2005: 6). McGregor (2007: 159) argues that grounded studies of development projects highlight that communities 'are not passive victims of development processes' but instead 'attempt to attract, manipulate and utilize development in locally significant ways, albeit within the constraints of broader power relationships'. Those programmes that support post-development ideals are those that allow for flexibility and support local ideals and goals. Local communities should have control over 'the actions and initiatives of external actors operating in their locality' (McGregor, 2007: 161). The Dhimurru *Yolnguwu Monuk Gapu Wanga Sea Country Plan* provides an opportunity for considering post-development in practice as Yolngu seek to assert their management and development aims within the hotly contested seascape of marine resources.

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