ed about 60 percent of the reefs negatively, Richmond said. As proof, Davis said, the island is catching 70 percent less reef fish than it did 15 years ago. "And that is with an increased number of fishermen," Davis said, adding that a reef under the right conditions could return itself to a healthy state in 15 years.

Fouha Bay in Umatac was chosen as Guam's test case for the project, because it has lost much coral from rain runoff and there is lot of historical data available about the area's erosion, Richmond said. As part of the project, two sites in Palau will be tested, Richmond said. The completion date is about two years out.

Quinata said he is ready to give whatever help he can to push the project over the finish line. When the scientists were testing Fouha Bay, he gave them his office to use as a command center.

"We need to address this channel to correct these problems. I am not that much of a fisherman, but I am hearing from some of our constituents about it," Quinata said. "And I am not an expert so we let them come in and, hopefully, they will provide us with vital information to help restore our reefs."

Source: Pacific Islands Report / Pacific Daily News, August 2001

NORTHERN MARIANA ISLANDS

Northern Mariana Islands importing less fish

A sharp decrease in the Commonwealth's fish imports in recent years indicates that an increasing number of local businessmen have ventured into commercial fishing, according to a report from the Department of Commerce. Commerce officials said this development is spurred by the increasing demand by the islands' hotels and restaurants for fresh sea products.

The Central Statistics Division noted that fish imports dropped by close to 85 percent in a six-year period, from 1.194 million pounds in 1992 to only about 184,300 pounds in 1997. Since 1992, CNMI has witnessed a declining trend pertaining to the importation of fish products into the Northern Marianas. Fish imports dropped by 43 percent from 1992 to 1993, then down again by 24 percent in 1995.

The biggest drop on an annual comparison was recorded between 1996 and 1997 when fish imports fell by 55 percent from 410,690 pounds to only 184,363 pounds. A study previously commissioned by the Commonwealth Ports Authority recognized the bright potential for fish transshipment in the Northern Marianas. A proposed fish transshipment program that may be implemented by the CNMI government would handle at least 150 boatloads of 15-20 tons per month, bringing at least $3,500 in wharfage revenue to the seaport each month. Also, there are opportunities to transship by air fresh and frozen tuna to the Japanese market.

The Central and Western Pacific Ocean is home to the world's largest tuna fishery, which is currently worth approximately $1.7 billion a year. The Commerce Department's report showed that imports still comprise more than half of the total fish sold in the Northern Marianas each year. In 1996 alone, a total of 846,686 pounds of fish products were sold in the CNMI. About 410,690 pounds of that total were imported from countries in Micronesia and Asia, and the mainland United States.

In 1997, 380,135 pounds of fish were caught and sold in the Northern Marianas, with reef fishes constituting the largest common species, followed by skipjack tuna and mahi mahi.

Source: Pacific Islands Report / Saipan Tribune, May 2001

KIRIBATI

Let's go fishing

by Jane Resture

Fishing and associated activities form an intimate part of the Kiribati way of life. From the preparatory work and fishing procedures to the final act of consumption, these also relate to certain norms of behaviour and belief which until now have been traditionally handed down in each generation.

The ancient practices and attitudes as compared to modern culture are not always easy to identify because they are normally passed on only within the family group. Fishing and exploitation of other marine products are the mainstay of Kiribati life and therefore the traditions are closely guarded as being essential to survival of the culture.

Since the earlier magical practices, as recorded by writers like Sir Arthur Grimble and David Lewis and as researched by the Fisheries Division, a lot of changes have come about. The present status of Kiribati fisheries differs from island to island and from family to family. The availability of alternative foods and forms of recreation and the incorporation of new and modern ideas have all affected the nature of these changes. Major differences in attitudes about fisheries can be observed between the outer islands and the capital in South Tarawa where a greater mix of customs and a larger concentration of population exist. Besides their remoteness from the urban centre, the northern and southern groups of islands are distinguished further by differences in ecology which affect the nature of the fishery resources.

Generally, however, in the majority of the sixteen islands in the Gilbert archipelago, the fisheries culture is little changed from the olden days. In this chapter, it is endeavoured to highlight the various aspects of change, the associated problems and the potential of ideas which are applicable in the present stage of fisheries development in Kiribati.

The "let's go fishing" concept

Two terms commonly used by writers to describe local fishing are "subsistence" and "artisanal". These are normally understood to mean the catching of daily food by families to acquire enough for one day. Only meagre gear is necessary and the amount of fish caught is dictated by the ability to process and preserve the catch beyond that required for immediate use. Traditionally, I-Kiribati regarded fishing as meeting the basic need for daily food. As the old saying goes, "You can live only if you go out and catch your food".

However, there is also a connotation of enjoyment, for traditional fishing inevitably involves the community in a social way - thus, the "let's go fishing" concept. The thrill of fish pulling lines, the risks faced on the water and the enjoyment of good or large-sized catches, all contribute to the tales told by fishermen, to the food for thought by women whenever they get together and to the examples set for the younger, upcoming fishermen.

In general, I-Kiribati in the northern islands have better access to fish and marine resources than those in the south. The northern lagoons abound with edible cockle, clam, octopus, sipunculid (like a marine worm), sea urchin and others, and it is quite easy to obtain daily food without much gear. Acquiring seafood may involve anyone, whether it be woman or man. Only a few families utilise technical skills of a specialised nature although some have inherited a lot of such knowledge handed down in folklore form. One example is the ability to call dolphins to shore as reported by Sir Arthur Grimble in "A Pattern of Islands" (1952).

In the southern Gilberts the conditions are harsher with little land and poor soil. Many islands have no lagoon at all and hence are limited in the abundance of fish species compared to the atolls. The constant surf around the single islands of Nikunau, Tamana and Arorae requires fishermen with expertise in facing the often six-to ten-foot waves encountered in their small canoes as they cross the reef when leaving or returning to the island. As a rule, attitudes towards life are more reserved and are geared towards making the most from the limited and sporadic marine resources throughout all seasons. Fishing skills and ideas are more closely guarded by each from the open sea, while women concentrate their activities in the lagoon waters and in the household. From the shallow waters of the reef flat, young boys are encouraged to venture past the breakers into the sea and eventually to take part in spearfishing and handling of various catches beyond the reef.

Initiation into manhood involves a youth joining the older men in fishing, handling the catch and the canoe and finally doing all of this by himself and bringing in the quantities required by the family. He will then be regarded as evenako (a grown-up man).

The essential nature of fishing expertise in Kiribati is dependent on the remarkable efforts and skill of the old men in transforming various natural resources into something practical and useful to the people. At least, so it is said! A successful catch is assured not only by employing the correct gear but also by observing the strict behavioural norms attached to the fishing endeavour.

Other fish foods are now available in the stores for daily use. A tin of mackerel not only serves as a more convenient substitute but is becoming an acquired taste. It is a known fact, however, that the I-Kiribati do get tired of such foreign food and really prefer the taste of fresh fish, whether it is eaten raw or barbecued or cooked to any other preference.

Conservation and management

The operationals of artisanal (subsistence) fishermen are controlled to a certain extent by the old men in the villages. This pertains mainly to the conservation and management of the fisheries stock.

For example, in the islands of Arorae and Tamana the use of pressure lamps and other strong lights to catch flyingfish is prohibited even today. Only the coconut leaf torch that was traditionally used is allowed. This requirement is locally observed in order to conserve the abundant flyingfish resources around these islands. It is believed that continuous use of much stronger lights will chase away these fish which are a mainstay of the daily diet in the south. Lots of people in Kiribati now question this conservative ruling of the old men from the past. It is also believed, however, that this prohibition will act as a conservational measure in the face of increasing pressure for fish food by a rapidly expanding population. It is known that similar conditions are enforced in other parts of the world. In a like manner, the use of underwater torches in Arorae by divers seeking to catch lobsters has threatened reduction in the extent of this resource, but the restriction on such methods has helped in letting the lobster supply regenerate naturally.

There will be a need to alter some of these subsistence ideas in order to effect gains in some aspects of modern development. For example, fishing by groups may be more advantageous than by individuals if maximum economic benefit is to be derived from relatively minimal equipment, resources and capital. For effective catching from small canoes, the tuna and other fishes which are regarded as essential for survival of the people need to be available close in to the islands.

Traditional beliefs and attitudes characteristic of artisanal fishing will have to be considered carefully in the light of fisheries development plans which aim to tap the larger resources farther out to sea and generally to encourage greater production of deep-sea fisheries.

Another clear example of restrictive fishing used in several of the islands which have no lagoons is the closing of certain areas to trolling for tuna. These areas are instead reserved for a deep-line method called *te kabara*, that is, a baited hook is fastened to a small stone with a leaf wrapping; the stone acts as a weight and when lowered to the required depth is untied by a sharp jerk on the line. It is believed that in trolling, the tuna tend to move with the moving lure and hence any deep-line method, including *te kabara*, is rendered ineffective. The use of outboard motors may be very effective in trolling but they are prohibited in most southern islands due to the noise and speed which tends to disrupt those fishermen who employ the *kabara* method.

When one thinks of maximising his catch, then conflict arises if restrictions must be observed for conservation reasons. Already, in Tarawa trolling is one of the favoured alternatives as this generally assures a better catch. However, it should be noted, the rising cost of motor fuel has somewhat reduced the advantage of this method. This is somewhat offset by a rise in fish price. The benefits of conservation and the danger of overexploitation are well understood by some local fishermen who use bonefish (*te ikari*) for bait. For example, they will strip the bonefishes during the mass gathering of the *ikari* for their spawning runs. This stripping facilitates the natural fertilisation process and permits more bonefish to propagate.

Most conservation measures are recognised as necessary to offset current fishing pressures. The very nature of exploiting different kinds of fishes and marine life at different times of the year has so far caused little worry about the state of existing fish stocks. Nevertheless, concerns are now beginning to emerge due to increasingly productive and effective methods of large-scale fishing to cater for the rapidly growing food demands in Kiribati.

Fishing methods and gear

Knowledge of fishing techniques is one of the main aspects of culture that gives recognition and status to I-Kiribati in the village communities. Exploitation of different inshore and offshore areas determines the type of fishing method to be used. There are more than thirty known techniques practised in Kiribati. Some of these are described here as appropriate to a given area and fish species.

Reef flat and lagoon flat

Collection by hand or with simple tools or utensils (spoons, forks, sticks etc.) is common. This is done mainly by the women and children. The predominant method of fishing in the shallow waters is by a co-operative drive using gill nets. Monofilament gill nets are preferred and these are purchased from local stores in the villages or from from other nearby countries such as Nauru, Marshall Islands and Fiji. The Fisheries Division is selling modern gear through a subsidy scheme.

In South Tarawa, most household possess a small gill net for catching small inshore fishes such as te *ninimai* (silver biddies or *Gerres oyena*). Traditional netting is used rather little nowadays. Sometimes fishermen rig their own gill nets by using buoyant local wood for floats and lead which is melted down from old battery plates for sinkers. Excessive use of lagoon resources is seen, especially in Tarawa, where there is an emerging need to monitor the effect of new fishing gear and increasing production on the available stocks.

At the reef edge

The long and narrow islands are edged by short coral reef slopes where a number of varied fishing

techniques are employed. Essentially these involve lines with baited hooks or lures. Outrigger paddling canoes are used, as well as floats (*te kai n taumata*) to which hook and line gear is attached as an accommodation while one is working in the water. For spearing equipment, the sling is made from a rubber inner tube (car or bicycle) and the spear is fashioned from a metal rod, but this gear is now being replaced with triggered spear guns and Hawaiian slings, brought back from overseas by Kiribati seamen and other travellers. In the past, binocular masks were used, being improvised from a shaped piece of wood with the glass piece fixed with sticky breadfruit sap to waterseal the fitting. However, imported plastic and rubber masks are now becoming more readily available.

In line fishing, specialised methods with different lures, bait and baiting techniques are employed. For example, one-to-two-inch hooks with a white feather lure are especially valued for catching *te mon* (soldier fish). At various seasons, other rock fishes are predominant and at certain grounds only. Knowledge of the prime areas and preferred methods is kept secret by local fishermen. Ordinary hand lines are used.

Eel fishing with traps is also done at the reef edge. A lot of rules and norms are associated with this method. Different baiting techniques are used in order to catch a particular species or size of eel. This is one of the oldest traditional methods of fishing that is still practised. The house-shaped traps are made from a heavy shrub or ironwood (*Pemphis* sp.*)* and it takes at least four days to build one. Catches from this trap can be quite substantial. As far as I am aware, Kiribati is one of the few places in the world where eels are caught by this method in such great quantity, ranging from forty to fifty pounds per trap. This kind of eel fishing is especially successful as practised by the people of Nonouti and Tabiteuea.

In the deeper areas, octopus is caught by using jigs or special curved and pointed rods. A few jigs similar to Japanese squid-jigs are getting to be common in South Tarawa.

Turtles are sought in the crevices of the reef edge. At depths of not less than five to ten metres, divers seek out the sleeping turtles whose backsides protrude from the coral crevices. While the captured turtles are then normally tied to a rope from a floating buoy at the water's surface, barbed steel hooks are now found to be more efficient when attached to the turtle's flesh.

Recently adopted methods of fishing tend to be more specialised and are favoured by the most energetic divers. These men have been known to stay underwater for more than five minutes. Special training in traditional times, as described by early observers, is practised, though there are fewer traditional divers left.

On the open sea

Pelagic fishing is done from canoes beyond the breakers at depths greater than ten metres and as far offshore as ten to twenty miles depending on the capability of the craft. Essentially the canoe will be equipped with monofilament lines for either deep-bottom fishing or trolling, an assortment of baited or feathered hooks, a knife, a club to stun the bigger fishes and a bottle of water for quenching one's thirst. Tobacco has become a necessity, too, without which fishermen have been known to return to shore to replenish their supply.

Traditional hooks are rarely used anymore except for pieces of wire three to eight inches in length and bent to form a V-shaped hook. Fish bones of similar shape were used in earlier times for flying-fish. It is interesting to note that hooks and lures normally used by fly or river-fishermen in other parts of the world have been stocked in some island stores but many of them are totally useless in Kiribati waters. Various old-time trolling lures, shaped mostly from feather, fish skin, coconut leaf and fibres, have persisted to this day. More important than these lures are the associated beliefs which fishermen still depend on to recognise the nature of the particular fish they wish to catch.

The pole-and-line method, using a pearl-shell lure as depicted in many legendary songs about Teraka, the fishermen's god, is now the most important and prominent commercial form of tuna fishing. This technique and the art of making the lure are still very much alive in Kiribati.

Deep-bottom fishing in depths greater than 100 fathoms have been revived through a Fisheries Division programme. Little longlining is attempted due to the scanty gear available, though some longlining has been trialled by the Fisheries Division.

Canoes

The manufacture of Kiribati fishing canoes has changed little from the old designs. However, modifications have been made in the use of modern tools, paints and synthetic glues. Coconut sennit was once utilised for tying together the planks of a canoe hull. While sennit is still employed by some craftsmen, it is now being replaced by monofilament nylon cord of twenty to thirty pounds breaking-strength. On the slightly larger sailing canoes, small outboard engines (two to eight horsepower) now serve as an improvised supplement or in some cases replace sail power entirely. This modern substitution has extended coverage and range of these canoes.

In summary, the fishing methods and gear of I-Kiribati have changed with time and will most likely see even more developments due to the increasing demands for fish and marine products. It must be noted, however, that locally known information about fish behaviour, seasonal variation and periodicity is an essential ingredient in the successful adoption of newer methods. All of this– both traditional and modern skills and knowledge –have to be critically analysed and integrated if gains for the proper understanding and better utilisation of fisheries technology are to be achieved.

New developments

The progress of Kiribati Fisheries Division programmes had led to a concentration in four major areas.

A TUNA POLE-AND-LINE FISHING COMPANY. Te Mautari Ltd. (now Central Pacific Producers), established in 1980, came about as a result of several tuna-catch surveys and a study of the feasibility of raising milkfish as live bait. The greatest asset in the operation is attributed to the locally recruited crews who readily adjusted and picked up the necessary skills after only one year. By 1983 the four company vessels were crewed mostly by I-Kiribati with only expatriate chief engineers, who were provided through external funding for technical aid.

This development certainly goes against the belief that it is difficult for "locals" to spend months away from home on a commercial fishing vessel. The company also operates marketing facilities on shore which have greatly changed local attitudes about the quality and distribution of fish which are now available for sale.

EXTENSION PROGAMMES IN THE OUTER ISLANDS. In providing assistance to outer island fishermen, few problems have been encountered resulting from the introduction of new ideas and practices. For example, the concept of forming fishing groups was well received, contrary to some scepticism voiced earlier. This move has initiated and encouraged the greater production of fish. The marketing of fish locally in the islands has also been received favourably, despite a popular belief that traditionally every family should fish only for its own needs and not for other people, except possible missionary or government workers who are not native to the islands.

Introduction of new fishing gear has widened the experience of some I-Kiribati. A modified canoe-type boat with an improved sail design for greater manoeuvrability has helped to improve older canoe designs for more extended usage of the craft. Conversely, however, the tremendous expense incurred by the introduction of aluminium boats with fuel-drinking outboard engines has led to a realisation of the dependence which only a few islanders can afford except some workers in government service.

With increased fish production from the outer islands, external markets will have to be found to generate foreign revenues needed to sustain the national economy. Not only that but standards of product quality and regularity of supply shipments will have to be guaranteed. These all add up to anticipated problems in trying to satisfy the foreign market at the expense of local consumption needs. Perhaps the most critical problem in meeting the demand from overseas will be to hold fishermen from the outer islands to a regular production schedule. But since they have many commitments, social and otherwise, in the local community, these calls on their time and labour may be more pressing than the fulfilment of export requirements.

AQUACULTURE. Traditionally, milkfish fry were maintained in inland ponds and raised extensively for use during feasts, droughts and stormy weather. Milkfish is favoured due to its fatty and delicious taste.

When *Tilapia*, a pond fish, was introduced by a visiting consultant to help the islanders in their protein requirements, it resulted in the destruction of the milkfish population in most of the ponds. As *Tilapia* is not eaten nor liked due to its non-salty taste, it is considered to be a pest and cries have been loud for its eradication.

Purchasing milkfish fry from villagers of the 80-hectare food and live bait production ponds at Temaiku in South Taro has given I-Kiribati another potential source of cash income. Great interest has now been shown in most islands to have the scheme extended to their place. Despite some beliefs that aquaculture is not suitable for development in Kiribati, it did exist in years past and if managed properly it could provide alternative sources today for protein and income.

Trochus spawning and restocking has been tried by the Fisheries Division, though it has proven difficult to check the survival of animals on the reef. The restocking is aimed at providing income opportunities for islands with limited lagoon systems. The black pearl aquaculture industry is still at the research stage. A Japanese project on sea cucumber rearing has also been established. Production of the marine seaweed, *Eucheuma*, is well established among coastal villagers in Kiribati and forms the basis of an important export industry.

TRAINING. The Division offers training in all aspects of fisheries, quite apart from its regular

programmes to train assistants for outer-island extension work. While it is true that we cannot truly teach our fishermen to fish – the majority of them know how already – the converse is also true in regard to the newer methods in fisheries which are conducted on a larger scale. In this context, the teaching of older men by younger ones who are specialists in the new developments is an interesting change because the reverse was normally the case in the traditional past. Training of technical manpower for localised posts is not an easy process as the terms of reference are based on an alien set-up and needs to be geared towards appropriate compromises.

Commercial fishermen

Private and local commercial fishery ventures have started up in Tarawa. The fishermen have equipped their own 18 to 20-foot skiffs with outboard engines and regularly fish for skipjack and yellowfin tuna about four or five miles off Tarawa. Catches using poles and pearl-shell lures have been made up to 1,000 kilograms per boat per day. This is clearly a remarkable application of traditional knowledge which has been lost in most other Pacific islands.

Changes in traditional attitudes are notable in the use of machine equipment, cutting down on expenses and getting a fair sale value for each catch. There is still room for improvement in the quality of the catches. Some problem existed earlier in the fishermen's idea that Te Mautari Ltd. should always buy the catch at the producer's demand price. Then the Company at one time stopped buying the independent fishermen's catches due to a glut in the market and the need to lower its offering price for the time being. This difficulty has since been resolved after many hassles between the parties concerned. In any case definite know-how and training are required for upcoming business-oriented fishermen.

Foreign involvement

Prospective joint-venture partners, private overseas businessmen and other outsiders keep appearing in Kiribati to promote ideas which appear to be very sound and sincere. But local management in fisheries developments is not always in control of sufficient information to properly evaluate overseas capabilities. Many of the self-styled developers do get away with making only a small commitment as Kiribati culture dictates kindness to all newcomers. These proposals from external sources need clearer analysis before immediate or future involvement by I-Kiribati whether it be in the public or the private sectors of fisheries concerned.

Foreign fisheries aid is not always free of conditions. It is not always possible to manage and co-ordinate programmes due to foreign aid restrictions. It is, however, realised that self sufficiency is required at the Kiribati end. A final goal is always perceived and that is the need to train local manpower to replace expatriate staff. While this may be expected to happen in the long run, it will take much time and patience. The handing over of management and technical responsibilities to local counterparts is constantly preached, but how effective this will be with the great cultural differences that exist between Kiribati and the developed nations?

Foreign involvement in joint ventures is most probably the answer to the immediate commercial development of fisheries in Kiribati, since little capital is available locally to initiate large-scale enterprises. This strategy can be expected to have a corresponding effect on traditional values and culture which is a problem to be faced and accommodated if we are to enter the international community on a more self-sufficient basis.

Conclusion

If the Kiribati culture is to persist for the purpose as people see and need it, then definitely some compromises will have to be made. One very clear difference from the traditional way of looking at fisheries is the monetary profitability of the whole fishing operation. Perceptions of expenditures, the running costs of operations, are becoming prime considerations. This approach, however, is countered by the concern of other commitments which normally obligate the island family and also the village community.

The concept of "Let's go fishing" is changing to "Who gains from it and what will it cost me?" Cultural joy in fishing is still very much a part of our heritage and the "fishy" nature of Kiribati fishermen persists. This needs to be recognised, channelled and utilised more fully for the benefit of all.

It is seen as inevitable that much of our fisheries culture will continue to change as it has already done. Caution is urged, however, to align the various new fisheries initiatives as near as possible with Kiribati culture as presently perceived or, more correctly, with full consultation of I-Kiribati who may be involved in any commercial venture.

In the face of all this and the emphasis which the Government places on marine resources for our national development, there needs to be a review of all these matters that are the basis on which lies our future fishery culture. In the face of change we need to keep reminding ourselves of such questions as these –"Are the old men ensuring that the essential values and knowledge are being passed on?" and "Is our system catering for and compromising this change?" Future development

promises benefits for us all but may impinge on our traditional concern which is "Enjoying Survival Through Fishing!"

Source: Jane's Oceania Home Page , http://www.janeresture.com/; Let's Go Fishing: http://www.janeresture.com/ki33/fishing.htm; Copyright © 1999-2001 by Jane Resture (jane@janeresture.com)

AUSTRALIA

Native title over the sea - recent developments

by John Kavanagh

The issue of native title over the sea and coastal areas is one of increasing importance. More cases are coming before the courts, and the well-known "Croker Island" case will be heard by the High Court later this year.

The trend in recent years has seen increasingly ambitious claims being brought by indigenous groups, who assert traditional fishing and access rights, as well as exclusive possession of the sea, the fishery and the seabed. By contrast, state and federal governments are concerned to regulate fisheries to ensure sustainability, and to exercise control over mining and exploration of seabed resources. Stakeholders, such as the fishing industry, are also vitally affected. It is likely that the trend towards litigation will continue as native title over the sea becomes an increasingly heated issue.

Mabo and Wik

Until relatively recently, the established categories of native title did not extend over the sea, or the seabed. In the landmark Mabo case, which introduced the concept of native title into Australian law, a native title claim over the sea was abandoned at an early stage. It was recognised by the claimants that the sea claim was very complex, and uncertain of success.

Mabo established that indigenous peoples who have maintained a continuous relationship with a particular area, may have rights of access and occupation to continue to enjoy traditional activities, such as hunting, fishing or religious uses. Such rights have been loosely termed "native title." The existence of these rights is subject to demonstrating a continuous relationship.

This concept was extended in the Wik decision, where the High Court held that the granting of a Crown lease for the use of land, which lease was never taken up or exploited in any way, did not terminate the native title relationship with the land enjoyed by the indigenous inhabitants.

Elder

The recent spate of litigation involving native title sea claims could be said to have begun with Elder v The State of Queensland (1997). In Elder, a native title application was brought in the Queensland Supreme Court over an area both within and beyond the three mile limit of Queensland's jurisdiction. The claim, as brought before the Court, was outside the ambit of the Supreme Court's jurisdiction and was struck out without a detailed consideration of the substance of the native title claim.

Lardil

In the case of the Lardil Peoples v The State of Queensland (1999), the Federal Court was called upon to decide whether the granting of a consent by the Queensland Government to construct a buoy was lawful. The native title claimants wanted the licence to be set aside, to prevent the construction of the buoy. The Court held that the licence was lawful and that the construction of the mooring could proceed. The Court said that being a registered claimant for native title was not the same as being a registered native title holder. The judge was not satisfied, on the evidence before him, that the construction and occasional use of the mooring would be inconsistent with the enjoyment of native title rights in the claimed area.

Croker Island case

The most controversial case before the courts at present is the case of Commonwealth of Australia v Yarmirr (1999), also known as the Croker Island case.

Croker Island is near Arnhem Land in the Northern Territory. The subject of the claim is almost all of the area seawards of the island within three nautical miles. The claim is over the water, the seabed below it, the air space above it and all resources therein including fish, minerals and other natural resources.

The claim was heard before Olney J at the first instance, who held that: