CHAPTER SEVEN

'A conflict of interest': fringe dweller resistance and Aboriginality

7.1 Introduction

In the last chapter, I presented case material illustrating fringe dwellers' engagement with the state that suggests that Sansom's (1980a) 'segregated social field' analysis does not adequately represent the priorities of fringe dwellers. In this chapter I argue that claims to town land made by the resurgent Larrakia 'new tribe', which are defended by Sutton's (1995a) 'neo-classic' model of land ownership, have increased a widening gap between the traditional land owners and other Aboriginal residents of the land in the Darwin region and the nearby Cox Peninsula.

My research suggest that the struggle by fringe dwellers for space in Darwin has been weakened by the lack of support from the Larrakia and other Aboriginal representative groups, while the substandard conditions in the camps has added to public perceptions of misspending by Aboriginal organisations. My fieldwork also suggests that, in relation to fringe dweller resistance, the lack of involvement of Aboriginal representative bodies in the protests and complaints of the campers in the 1990s served to insulate those actions from control and encapsulation by institutions of the state.

This thesis argues that, despite Sansom's 'balancing of anthropological books that is long overdue' (Sansom 1982b:118), the marginalisation of fringe dwellers is partly due to legal definitions of Aboriginal land owners since 1976 (see Wolfe 1994), which now have more influence than the spoken agreements made between familiar Aboriginal parties in the past. Although change is promised in the Native Title Act, so far native title claims in

Darwin appear to have further marginalised the fringe dwellers. A further factor in the marginalisation of fringe dwellers is the orientation of the *Aboriginal Land Rights (NT) Act 1976* towards entitlement, rather than including claims based on need, as was originally intended (see Rowley 1978:77; Merlan 1994:15).

According to Sutton (1999a:8):

> The Land Rights Act alone, as it stands, is clearly inadequate to the task of dealing with the security concerns of long-term residents whose ancestral countries lie somewhere other than where they are currently living. Anxieties about being 'kicked off' or 'sent back' by those who have ancient connections to the land are real. The native title system, with its explicit capacity to cover such concerns by formal agreements made at the point of the determination of native titles, offers a much better regime in this regard.

Gaynor Macdonald (1997:74) describes 'an increasing polarisation between traditional and historical people'.[1] She claims that traditional owners' land claims are disadvantaged because they confront mainstream Australia with its history of colonialism (Macdonald 1997:77), whereas the 'historical people', who have moved onto the land from elsewhere, make claims for rights based on 'non-Indigenous values of a liberal democratic society' (Macdonald 1997:76). She adds that: 'Traditional rights do not lend themselves to absorption into generalised democratic values' (Macdonald 1997:79).

Trigger (1983) also writes of 'historical' and 'traditional' claims to land. He claims that historical associations to land lack the genealogical connection to specific areas. In historical connections to land, 'the systematic formulation' of traditional claims is not present (p.193). Trigger (p.193) lists historical

connections to a region as: habitual associations (such as camping and hunting), specific event associations (where a ceremony or other memorable occasion occurred), and biographical associations (a birth, death, accident or similar memorable event). There may be historical associations to the current place of residence or to traditional lands elsewhere (p.197). Trigger (p.192) claims that: 'People at both end of this continuum [of historical and traditional associations with land] need to be able to legitimately claim land under any just legislation'.

With concern for this 'differential quality to being Aboriginal', Macdonald (1997:80) asks: 'How are the concerns of historical people to be heard and accommodated?' Macdonald (1997:78) looks to the host/guest model where 'traditional people as hosts have certain powers and rights, so too do guests, and the onus is on the hosts to look after the guests adequately'. Obviously, the application of this rule varies under modern conditions where 'guests' may be permanent and even outnumber 'hosts'. In this chapter, I argue that native title changes the dynamics of the above conflicting agendas of recognition and equality, while the revitalisation of the Larrakia group blurs the distinction between 'traditional' and 'historical' people in Darwin.

Wolfe (1994:129) maintains the Native Title Act, most particularly in 'settled Australia', 'recruits a minority of Aboriginal people to the continuing invasion of the rest'. He maintains that government legislation 'constitutes a state strategy for containing Aboriginal resistance' (Wolfe 1994:130). Povinelli (1997:20) refers to the Act as a 'double gesture' where 'the state has relied on a representation of Aboriginal social organization to consolidate and legitimate its power'. In a more positive view, Tonkinson (1998:303) suggests that Mabo provides a nexus between the 'political' and the 'cultural' by reinforcing 'laws and customs' as key determinants of title.[2]

As I will illustrate, the Burarra fringe dwellers believe that they are asserting rights to urban land under an indigenous customary system that continues regardless of Australian law. The fringe dwellers live on the land, recognising the Larrakia as owners but believing they are allowed access to the resources on understandings also applying in their homelands where, 'notions of trespass are, in [Hiatt's] estimation poorly-developed or non-existent, being submerged or nullified by an over-riding ethic of hospitality and open-handedness' (Hiatt 1982:15). However, the Larrakia are arguing within the Australian legal system, using Sutton's model of classical Aboriginal social structure. To the time of writing, for reasons I will discuss, the Larrakia incorporated organisation has done little to support fringe dwellers' rights to space in Darwin.[3]

7.2 Fringe dwellers in the context of the Sutton vs Sansom debate

Sutton (1998:54, 1999b) and Sansom (1999) have outlined an increasing dichotomy between the 'fluidity' and 'neo-classic' analyses of Aboriginal social structure and relationships to land. Sutton (1999b) makes a strong case for the historical stability of Aboriginal genealogies, totems, laws, customs and social structure in his plea for 'systems thinking' in contrast to the uncertainties of process in 'culture production' analyses.[4] In a satirical defence of assertions of traditional Aboriginal social structure, Sutton (1999b:13) comments: '[S]tructuralism and functionalism have long since become devil worship. The very use of the notion of "systems" sometimes looks like it also might follow them down the same drain'. Sutton (p.13) adds convincing and well-researched historical evidence of 'classical land tenure to which so many Aboriginal people remain committed'.

Sansom's work amongst Darwin fringe dwellers is described by Sutton (1999b:21) as the 'most extreme example of fluidist ethnography in Australia'. Generalisations drawn from life in a Darwin fringe camp by Sansom (1981a:278, 1985:83, 1987:7), discussed in Chapter Four of this thesis,

are dismissed by Sutton (1999b:23) as only 'one aspect of one particular kind of residential aggregate in one aspect of its members' lives' (see also Layton 1986:30). In his critique of Sansom, Sutton (1999b:38) discusses over 150 years of serial patrifiliation that, according to Sutton's research, has been predominantly stable in the Daly River region. This area is the homeland of many who lived in the Knuckeys Lagoon fringe camp, which Sansom (1980a) claims is ordered by performative relationships, emergent states and indeterminate futures.[5]

Sansom (1999) criticises Sutton's argument as a 'charter for monopoly rights' for 'neo-classical' anthropological interpretations of Aboriginal social structure over 'postmodernist theories' of Keen, Sansom, Myers, Povinelli and 'the new arch-fluidist [Francesca Merlan]'.[6] In his 1999 seminar, Sansom said that Sutton had 'taken what he wanted', or had been selective to defend his argument - for example he fails to mention the status of the 'five different language groups' which have moved onto Larrakia lands on the Cox Peninsula (see Povinelli 1993a, 1995b; Sutton 1998).[7] Sansom (1999) claims Sutton was a 'fluidist' in his earlier descriptions of succession to land through the evolving 'structural amnesia' of the Maranunggu people, which the Finniss River Land Claim interrupted (see Sutton 1980:8; Sansom 1980b, 1985:82; Toohey 1981b).

The description by Sutton (1998:59) of Aboriginal 'post-classical social organisation', in defence of 'the neglected domain of kinship', is evidence of changes emerging in Aboriginal social structure since colonialism. However, Sutton (1998:55) asks if these post-colonial Aboriginal social systems are 'transformations' or 'new creations'. He appears to answer by appealing for field work to 'throw more light on the mechanisms by which classical land tenure systems have been transformed into post-colonial ones' (Sutton 1998:53). According to Sansom's (1999) critique, Sutton's ultimate reference is

to structures 'as they are meant to be', and his 1998 monograph, *Native title and the descent of rights* should more aptly be titled, 'Descent *by* right'.

In my research experience, the Aboriginal residents at Fish Camp and Lee Point are committed to traditional social structure and land tenure systems, even while living far from their ancestral lands in an urban environment. They move easily between formalism and flexibility in their social organisation, in a dialectic which Hiatt (1984:11) emphasises is 'adaptive and dynamic' (see also Shapiro 1997). In the Lee Point and Fish Camp cases, Sansom's perceived dichotomy between fluidist and structural theoretical models does not apply. Similarly, in the case of 'Wallaby Cross', my analysis suggests that Sansom recognises, but chooses to downplay, the importance of 'classic' Aboriginal social structure. That is, the dichotomy made by Sutton and Sansom is not evident in Sansom's texts, or in this thesis. I argue that poststructural models of process and change as an alternative to classical structural models of Aboriginal society do not reflect the continuity of the social structures of the Burarra, Nkara, Gunavidji and allied groups which are demonstrated daily at Fish Camp, and also, as Sutton (1999b:22) suggests, at Knuckeys Lagoon.

The fringe dwellers amongst whom I did my fieldwork have a very different history of contact to the labile groups in Sansom's (1980a) analysis of fringe dwellers.[8] Coulehan (1995a:9) also notes that Aboriginal people in Arnhem Land have been largely insulated from 'labour related mobility' described by Sansom (1980a) and Collmann (1988). Contact came much later, and the land was not alienated in Arnhem Land. As a result, although a fringe camp community resembles the flexible residential communities described elsewhere, the members' ultimate reference is to an inherited structure and law centred on land ownership systems.

Like most long-term campers on Larrakia land, including at Belyuen (on the Cox Peninsula) and Knuckeys Lagoon, Burarra people made arrangements to use the land through friendships and associations with local landowners. Povinelli (1993:30) argues that the 1976 Land Rights Act subordinates foraging to other Aboriginal social and cultural expressions of land attachment. Povinelli (p.30) adds that 'the imbalance to how the two "sides" of Aboriginal life are weighed in land claim hearings has historical roots in popular and anthropological models of Aboriginal social life'.[9] Povinelli (1995b) uses the above argument in defence of the Belyuen people against the land claim of the Larrakia 'new tribe', as argued by Sutton (1995a). The hunting and gathering activities by fringe dwellers in Darwin and their continued marginalisation suggests that Povinelli's concerns about the priorities in land claims also apply to the rights of fringe dwellers who use and care for Larrakia land.

The Larrakia people seek to have their claims recognised by the Australian legal system. However, according to Mantziaris and Martin (2000:22), the Native Title Act fails to distinguish between the subject of recognition, which is indigenous relations to land ordered by traditional law, and, and the product of recognition, which is native title rights and interests as recognised by Australian law. As Pearson (1997:154) states: 'Native title is, for want of a better formulation, the recognition space between the common law and the Aboriginal law which now afforded recognition in particular circumstances'.

Mantziaris and Martin (2000:9) use a diagram of two intersecting circles, one representing indigenous relations to land and the other Australian law (Figure 2). The overlapping area is the 'recognition space' in which Aboriginal traditional law and custom is translated into Australian common law. According to Mantziaris and Martin's interpretation, the bulk of 'indigenous relations and practices concerning "country"' remain unrecognised and outside Australian property laws. (Mantziaris and Martin

2000:22). As Pearson (1997:155) states: 'It is fictitious to assume that Aboriginal law is extinguished where the common law is unable to recognise that law'. During my fieldwork, while the fringe dwellers' relationship to the land remained beyond the recognition of Australian law, the Larrakia people sought to have their interpretation of the 'classic' land tenure system, as described by Sutton (1995a), recognised by Australian law.

Sutton (1995b:10) signals a move away from 'the relative indeterminacy of indigenous people's land relationships, as compared with the tenure systems of nation states'. Sutton (1999c) mused at a recent conference that codification of Aboriginal practice might be beneficial for all in the articulations of systems.[10] He states (Sutton 1995b:10) that it would be unjust to 'deny people the right to move away from an inherently conflict-prone system towards the greater certainty and stability they might hope to achieve from engagement with the western legal system'. However, Mantziaris and Martin (2000:3) suggest that 'incommensurability' makes the translation from one system to another difficult.

The above were not issues in Darwin in the 1970s, when there were still groups of Larrakia people living in fringe camps. They mixed freely with fringe dwellers at Knuckeys Lagoon, Belyuen and other locations around Darwin, who joined the Larrakia-led campaign for land rights. By the 1990s, many of the older Larrakia people had died, leaving a small group living in the Kulaluk community, a family at Belyuen and a community on the old Larrakia Reserve at Acacia Gap, south of Darwin. Most of the other 1,600 members of the Larrakia Nation now live in urban housing and are members of incorporated associations under Western law. They are also increasingly influential in Aboriginal representative bodies supported by the state. Fringe dwellers remain marginalised by a process discussed by Merlan (1995b:81):

> There is a need for clear conceptualisation by anthropologists, with all the complications this may bring, of how different cultural selves are being produced through different forms of experience. A difficulty ... remains how such difference may be rendered intelligible in often adversarial contexts in which codification and regimentation of difference has been a political guarantee of the genuineness ... of the claim process.

7.3 Fish Camp and the Kulaluk landowners

During the early years of the fight for a camping place at Kulaluk, the Larrakia people who claimed the area 'stood together' with people from other Aboriginal language groups with which they had traditional and historical association (see Povinelli 1995c:327). In the camps and on reserves, the Larrakia shared ceremonies and life in the 'illegal' camps with groups who had moved onto vacant land on the Cox Peninsula and in Darwin (see Brandl et al:187). Larrakia people have also recruited men and women from other language groups to ensure continuity as their own elders passed away (Brandl et al 1979:194). Similarly, Walsh (1989b:3) documents instances where 'the transfer of knowledge across generations is going from non-Larrakia to Larrakia'. These processes are aided by the socio-cultural links which facilitate 'mixing' amongst Aboriginal campers in Darwin (see Brandl et al 1979:32; Brandl 1983; Brandl and Walsh 1983:154). According to Brandl (1983:17) it is the non-Aboriginal presence which has brought local Aboriginal groups in the Darwin area into close contact with one another.[11] The bonds between Aboriginal residents of the area have also been strengthened by sharing life's experiences as consociates (Sansom 1980a:137, 1980c:4, 1982b).

Until 1999, the group from Lee Point who sought refuge on Aboriginal land at Kulaluk received a verbal agreement to live on Kulaluk land from a Larrakia elder who was known to them from her years living in the old

Bagot Reserve. While she lived, she exercised a powerful influence in community decisions by right of her position as one of the last Larrakia-speaking women and a keeper of Larrakia knowledge (see Olney 1991:52; Heffernan 1996). With the passing of the generation who had known each other in the cattle and army camps, workplaces, ceremony grounds and institutions of the assimilation era, there has been a lessening of personal contacts between previously close Aboriginal groups. This section describes how those who moved freely over the Kulaluk land on the basis of their friendship with the traditional owners prior to the 1980s were being increasingly excluded by decisions made by the younger generation controlling the incorporated association which holds the lease. Unlike past generations, the Larrakia and Kulaluk groups have few ties to Burarra campers and have less need of their support. My examples also suggest that the commercial interests of the two former groups are seen to conflict with the needs of those who still camp on vacant land around the city.

As I have mentioned in Chapter Three, in the 1980s there was considerable pressure on the Kulaluk leaseholders to accept 'transient camps' on the lease (see Wells 1995a:75; *NT News* October 13, 14, 1981). Government policy had been to reject applications for land by homeless Aboriginal groups 'until adequate and rational use is made by Aboriginals of existing land grants' (NT Government 1981a: 2168). In addition, the policy stated:

> The residents of Kulaluk will be encouraged to identify areas within their leases for the establishment of additional separate camping areas (to this end, discussions have been held with the Kulaluk people and areas have been so identified) (p.2168).

Several of these sites were opposed by the Gwalwa Daraniki group (*Bunji* June 1982); however, illegal campers are still told by government and city council officials to go to Bagot, Kulaluk or other areas set aside for

Aboriginal use. This is what occurred after the eviction of Burarra people from Lee Point. However, the two complaints to the Anti-Discrimination Commission make clear that the campers were not always comfortable on Kulaluk land. Dulcie later told a White friend, Sally Mitchell:[12]'No one support us. When we moved from Lee Point, the first place we moved to the Kulaluk. Now they told us to come here [to Fish Camp]. They said we can't stay down the beach because they going to build houses there'.

When I arrived at Fish Camp, members of the group were filling jerry cans and asking to use showers at the private dwellings in the Minmarama village. According to the Fish Camp World Wide Web site:

> [T]he Kululuk [sic] have permitted [the campers] to live temporarily at Fish Camp, on condition they build no permanent structures. While grateful to the Kululuk, Fish Camp residents have no assurance they can remain where they are, no proper shelter, water source or ablutions. The Fish Camp people have been evicted and moved on from other sites around Darwin over the past few years, and have no security of tenure beyond Kululuk goodwill (Simmering 1999).

The Gwalwa Daraniki Association, which manages Kulaluk, refused permission to lay pipes for taps or to build solid structures at Fish Camp. The Association feared that signs of permanency might precede claims to rights of occupancy. Unfortunately, the restriction on improvements caused extreme discomfort for the pensioners of Fish Camp for over three years of a 'temporary' existence. Complaints to the media about the conditions at the camp also annoyed the Kulaluk management. After one publicised protest, a delegation from the Kulaluk village threatened to evict the campers because their complaints were giving the lease a bad name and 'shaming' the leaseholders. Representatives from the Kulaluk community aggressively questioned camera crews if they were observed filming at the camp.[13]

Before and during my fieldwork, the landowners caused further inconvenience for the Fish Camp residents by advising taxi companies not to drive into the camp. Often when 'minibuses' or taxis were ordered, the switchboard operator refused to send a vehicle to Fish Camp because the company had been informed that the area was sacred. Presumably, the instructions to the taxi company from the Kulaluk management referred to the burial ground hidden by coffee bush to one side of the access track (see Map 3). However, other taxi operators and drivers, who had not heard of the ban, accepted bookings from Fish Camp without complaint. For several months in 1997, from dusk to dawn, the Kulaluk management also began padlocking the double gates at the entrance to the track into Fish Camp, leaving the camp without emergency access at night.[14]

An announcement in the media (*NT News* October 16, 1999) of a $2000 grant for the 'Fish Camp Housing Project' failed to mention that the camp wanted the houses built elsewhere than the Kulaluk lease. I am informed that the publicity resulted in an immediate threat of eviction by the Gwalwa Daraniki Association. Although the order lapsed, by late 1999 the leaseholders finally ordered the Fish Camp people to leave the site. The Fish Camp area was then cleared of structures and is no longer in use as a campsite.

Although the Kulaluk community has always been mixed, it has grown in size since the first claim in 1971. Most of the original claimants have died and the membership of the Gwalwa Daraniki Association is now based on other criteria and alliances than those formed for a different purpose in the past. Relationships between couples, and children born to them, have created ties with urban Aboriginal families, Maoris, Torres Strait Islanders, Tiwi people and interstate Aboriginal people. Leadership is passed on through an extended family with Larrakia ancestry who protect their interests against competing factions. The family has negotiated the exclusion of their lease

from the Larrakia native title claim over Darwin and allied themselves with the Larrakia *danggalaba* clan, who are one of at least three contesting claimant groups in the Cox Peninsula Kenbi claim (see Povinelli 1995b; Rose 1995; Sutton 1995a).

Plans to develop the Kulaluk land in cooperation with Darwin and international businesses have made the organisation more inward looking and exclusive than in the earlier days of campaigning for recognition and land rights. In 1995, the Gwalwa Daraniki Association Incorporated, as leaseholders of the Kulaluk land, entered into an agreement with a local business to develop a range of tourist and accommodation facilities on the Aboriginal lease, including a motel, tourist village, water theme park, a par three nine-hole golf course and golf driving range. A McDonalds restaurant has been built but rezoning problems have stalled the other proposals (see GDA 1995, 1997; *NT News* August 22, 1993). To facilitate the rezoning, 'The GDA Inc, representing the Kulaluk and Minmarama Park communities, is seeking the assistance of Aboriginal and non-Aboriginal members of the Darwin community to lobby for the relocation of the Darwin Airport' (the land is under the flight path) (GDA 1997; see also *NT News* March 27, 1996).

The interests of Aboriginal residents in Darwin who depend on hunting and gathering to supplement their diet have been challenged by Kulaluk management since the lease was handed to them in 1979 (the area was granted to the leaseholder group on the basis of the land's past association with the Bagot Reserve which was set aside for all Darwin Aborigines [see Ward 1975; Wells 1995a; Wells 1995b]). Productive mangrove areas were threatened by planned development in 1981 (Wells 1995a:64; Day 1994:107) and by the digging of deep mosquito drains in 1983 and 1984 (Wells 1995a:67; Day 1994:123). These deep drains changed tidal flows and limit pedestrian access to fishing areas.[15] During my fieldwork, excavations began on a three-hectare aquaculture development that threatened the ecology of

an area of tidal flats (see Map 3). When the bulldozer began work, I cycled from Fish Camp to complain to the Kulaluk community elder who I had known since 1971. She told me brusquely, 'We need the money'.

According to the Association (GDA 1997), plans reflect the 'GDA aspirations for self-determination and socio-economic growth that will ensure the well being, independence and stability of their community'. Before a bulldozer began excavating the tidal flats for the prawn ponds on the day the Fish Camp group were preparing to return to Lee Point in May 1997, I had joined women in crab hunting, honey gathering, shell fish collecting and yam digging expeditions in the surrounding area. Regarding the effect on Aboriginal users of the land, the brief environmental assessment only states that:

> The Ludmilla Bay and Creek system serves as an aquatic habitat and food source for a wide variety of fishes. Ludmilla Creek and Bay are also used for recreational fishing and boating. Assessment has been made of the likely impact of the prawn farm on the local habitat, and the potential impact of other land users in the immediate area on the Aquaculture operation ... the farm will not be in view of the general public' (North Australian Aquaculture Company 1997).

I wrote: 'Gradually the lease is being alienated from its intended purpose of community use. Aborigines who fish, crab and live in the area will be affected by the large ponds and access roads' (*NT News* July 19, 1997). The contractor, who is an Islander associate of the Kulaluk Community, replied:

> I would suggest [Mr Day] spend less time condemning Aboriginal and Islander people trying to pursue sustainable economic and social progress and more time doing something useful himself. Now if Mr Day had a problem with Aboriginal development for community

> benefit he should say so and leave out all the nonsense' (*NT News* July 26, 1997).

The letter is interesting in its concept of the common aspirations of 'Aboriginal and Islander people'. The 'community benefit' appears to be for the interests of a small exclusive group of landowners who live in the village on the northern end of the Kulaluk land (see Map 3), while the development appears to be to the detriment of most other Aborigines who use the area. Quite apart from the doubtful sustainability of the aquaculture ponds in their Kulaluk location, the alleged 'economic and social progress' disrupts both a prolific hunting and gathering environment and a popular Aboriginal recreational area. Fish Camp people and the sizeable Aboriginal community at nearby Bagot Community are excluded from a landscape that is ironically seen, in the Aboriginal landholders' eyes, as an empty landscape available for development.[16]

The plans of the Gwalwa Daraniki Association for golf courses, motels and the aquaculture development, on Aboriginal land at Kulaluk in Darwin, which will exclude Aboriginal cultural and recreational uses as well as dramatically change the environment of the area, appears to contradict Sue Jackson's view that recognition of Aboriginal relationships to town country will result in 'land use outcomes which place a higher value on the protection of the environment, and respect for the richness of different cultural relationships to landscapes and places' (Jackson 1996b:101).

While the letter in defence of aquaculture at Kulaluk relies on values of ownership under Western economic principles, Povinelli (1993a:12) calls for 'a counter voice to the hegemonic frame of Western economic policy' that has not valued Aboriginal notions of land and labour. The relationship between the nation-state and indigenous people 'continues to be underwritten by the notion that the action of the intentional subjects has the power to transform

mere objects and landscapes into things of value' (Povinelli 1993a:8). In contrast, it is the everyday action of Aborigines hunting, fishing and 'just sitting' on Larrakia lands that develops a discursive relationship with the countryside (Povinelli 1993a:26, 53).

7.4 The Larrakia.

Burarra people have been present in the Darwin fringe camps since the Second World War, as previous chapters have described. Despite the paucity of personal contacts between Larrakia people and Fish Camp during my fieldwork and lack of support from Larrakia organisations, my research suggests that the fringe dwellers believe that they have common interest with the Larrakia. A camper is reported saying in the *Kujuk* (September 2001) newsletter:

> Like blackfella we are staying in the long grass, we born from the bush, they should leave us alone. If [Night Patrol] keep coming in the bush, we'll spear them. This is Larrakia land, [Night Patrol] should go back to their homeland, where they come from, they stay there. Larrakia, they let us stay as long as we in the long grass. This is our land. That's it.[17]

Songs composed in Burarra, telling of the contact experience, act as a living oral history record of life in the socio-cultural exchange with Larrakia and other people of the Darwin region. Visitors and residents in Fish Camp often sing many of these songs, like 'the motorcar song'. Some of these people from Arnhem Land also claim to be able to sing Larrakia songs in Larrakia language. Learnt by repeated use in shared camps, the songs document and confirm the ties between different people and different country. Without places like the fringe camps to gather to sing and dance together informally, the process will undoubtedly end. As Dulcie says:

> Doesn't matter we come from different country, we been all support one another. We all culture people, Larrakia people and from Arnhem Land. Why the government always kicking us out? Even [at] Kulaluk, my big sister she died there.

Fringe dwellers do not dispute the distinction between residence and traditional affiliation to country as described by Sutton (1999c:41) and Morphy (1999b). The people of Knuckeys Lagoon and Fish Camp have always respected the Larrakia as traditional owners, as do the people at Belyuen, across the harbour (see Povinelli 1993:73), despite the traditional owners being a minority presence in Darwin in past decades, until urban Larrakia people began to reclaim their heritage in the 1980s.[18] Layton (1986:30) states: 'In contrast to Alice Springs, Darwin [fringe camps have] almost no resident Aborigines with traditional rights to the land'.

Perhaps because of the absence of traditional owners, Dulcie and others from Arnhem Land who had committed themselves to the Darwin region for much of their lives often claim that they are Larrakia. Although most of the Burarra fringe dwellers do not know the Larrakia dreaming stories or use the Larrakia language to the same extent as the people of the Cox Peninsula, described by Povinelli (1991, 1993a, 1993b), they often call themselves 'Larrakia' to emphasise their claim to close historical ties to Darwin and knowledge of the land. In this case, claiming to be a Larrakia person signifies familiarity with the land on which they live. Several of the older people at Fish Camp told me that they could speak some Larrakia, including expressions they translated as, 'We all one family' and 'You mob all welcome'.

One man from Arnhem Land told me:

> My ancestors they were here, there were a lot of tribes ... all this area of Darwin was roamed, including my tribe was here too. Now we [are] in Fish Camp. This used to be a sacred ceremony area before, but I don't know, maybe the Larrakia don't use it this time. And we had songs, also concerns for Darwin. This has been going on for ages and ages, from ancestor to ancestor. This is Darwin, we can sing every coastal areas, every beaches. It's part of our nature.

Aboriginal visitors to Darwin continue to compose songs in their own languages that tell of their experiences and their place in the society and landscape. Dulcie sings to the accompaniment of a guitar, of a frightening night with her sister at Fish Camp as a cyclone passed near Darwin. Her nephew sings a more traditional song about gathering shellfish at Lee Point, while dancers enact the scene, in memory of his wife who died at the Lee Point camp. It is true, as Layton (1986:30) suggests, that the fringe dwellers do not have the same attachment to Darwin places as the 'localised, enduring clans' of the homelands, but the ties which they have constructed serve to make them feel at home on Larrakia land.

In Chapter Four I gave evidence of the fringe dwellers' attachment to land at Knuckeys Lagoon and the burials at the camp of two of Sansom's interlocutors he calls the 'Masterful Men'. In a discussion at Fish Camp, several of the campers told me they wanted to be buried in Darwin. Dulcie and her husband said they would request this in their wills. As she said on television, 'I grew up here and I will die here' (ABC 'Stateline' 24 May 1997). Gojok also told me he wanted to be buried in Darwin. After he died there was a prolonged dispute over where he should be buried. Eventually, to the resentment of most of the people at Fish Camp, a decision was made to return his body to Milingimbi, near his homeland at the Yilan outstation. It appeared to me that the desire to be buried in Darwin was a considered statement of commitment to a new place. However, due to the influence of

relatives in the homelands, the lack of land tenure in Darwin and the regulations for burials in towns, the wishes of the deceased are rarely enacted.[19]

While the Larrakia native title claim has problematised the claims for space by the fringe dwellers, fringe camps remain a valuable repository of Aboriginal cultural values and centres of Aboriginal resistance. During my fieldwork, this exchange of personnel and rituals continued as the Fish Camp group conducted smoking ceremonies by request after the death of people from other groups in Darwin. These requests became so frequent that the Fish Camp people complained they were 'like a ping pong ball', moving across the city by demand. I describe below how the campers were asked to perform as the 'Larrakeyah Dancers', on stage at a multicultural dance festival. More recently, the newspaper reported that 'elders of the Larrakia people danced in NT Parliament House for the first time as a welcome gesture for a group of federal politicians' (*NT News* March 3, 1999). The accompanying photograph suggests that the dancers were recruited from another language group for the event.

7.5 The Larrakia native title claim

In November 1971, when two representatives of the Larrakia people raised their flag outside the Northern Territory Supreme Court to claim the Darwin area, they were assisted by other Aboriginal men who were similarly homeless and camping on vacant land around Darwin (see *NT News* November 8, 1971; *West Australian* November 8, 1971; Day 1994:25). Twenty-five years later, on November 7, 1996, a Larrakia woman, Mary Lee, sewed a replica of the original flag. At her invitation I joined a ceremony at the site of the 1971 Kulaluk camp to again raise the flag (ABCTV News, November 7, 1996; *NT News* November 8, 1996; *Koori Mail* December 4, 1996). Three of the original residents of the camp were present, along with representatives of the Larrakia Nation.

The past struggle of the Larrakia and their fringe dweller allies intersected with the present native title claims under the powerful symbol of a flag.[20] Television reports that night used black and white footage of the 1970s protests in Darwin by fringe dwellers together with that morning's commemoration ceremony. The *NT News* reported (November 8, 1996):

> The Larrakia Aboriginal flag was raised in Darwin again yesterday - for the first time in 25 years. The first flag was raised outside the Supreme Court in 1971 as part of a symbolic claim to Larrakia land in Darwin... At yesterday's ceremony anthropologist Bill Day said the flag was the result of a realisation that Darwin was growing and Larrakia people needed to fight for their land.

The wide reporting of the 1996 ceremony may have encouraged the announcement of a Larrakia native title claim over Darwin three weeks later, the repercussions of which affected fringe dwellers' claims for living areas in town, as I will later describe.[21] Meanwhile, the reference in the media to 'the Larrakia flag' annoyed some members of the Larrakia Nation who claimed the flag had never been accepted as representing their tribe. The dispute confirms that a flag can be a powerful symbol of regionalism as well as a banner for ethnogenesis (see Tonkinson 1990:197; Keeffe 1988:71, 1992:55; Stokes 1997:166). The dissension drew attention to the fact that the original flag raising was for another purpose, for another time, when Larrakia claims were not supported by legislation and included other homeless Aboriginal people living on vacant land in Darwin. In 1996, the descent group incorporated as the Larrakia Nation required a more exclusive symbol of their identity than the old 'Larrakia' flag (Illustration 3).

On December 1, 1996, three weeks after the flag-raising, at a dramatic media conference the Larrakia announced a native title claim over Darwin,

including the foreshores and reserves which they regard as traditional hunting and living areas (*Australian* December 2, 1996; Carey and Collinge 1997:22). The claim was far more extensive than earlier Larrakia native title claims to scattered parcels of urban land (*Koori Mail* August 10, 1994; *Land Rights News* November, 1994) and earlier Larrakia *danggalaba* clan native title claims to selected vacant land around Darwin (*NT News* October 24, 1996).[22] 'A cynical and unseemly money grab', editorialised the *NT News* (December 2, 1996). 'We'll pay to use the beaches', complained Chief Minister Shane Stone (*NT News* December 9, 1996). The Chief Minister described the claim as 'a greedy money grab' and complained: 'You're talking about a whole city, complete suburbs, all of the vacant Crown land and that in itself will determine the way developers think about Darwin in the future' (*NT News* December 2, 1996).

In response to this criticism by the media and politicians (*NT News* December 2,3,4, 1996) a spokesperson for the Larrakia said, 'The Larrakia want the same rights to negotiate over developments that all other landowners enjoy in Australia' (*NT News* December 4, 1996). He also confirmed that the Larrakia had retained a strong traditional connection to their lands, including hunting, fishing and responsibility for sacred sites in the city area (*NT News* December 2, 1996; see also *ATSIC NT News* March 1997; *Land Rights News* March 1997; Carey and Collinge 1997:23).

On the internet, a statement issued by the NLC, under the heading 'Living together in Darwin', suggested that recognition of Larrakia native title would benefit 'all people' in the Darwin area:

> The Larrakia people are the traditional owners of the land in and around Darwin.
>
> Native Title is a way of recognising that the Larrakia people are the original owners of the land.

> Accordingly, Larrakia people have instructed the Northern Land Council to lodge a native title claim under the Native Title Act over the Darwin region.
>
> Native title is an opportunity for Larrakia and non-Larrakia people to come together to build the kind of society Territorians can be proud of: a society built on mutual respect and finding a path forward for the benefit of all people in the Darwin area (NLC 1995).

Similarly, a pamphlet headed, 'How will a native title over Darwin affect me?' was distributed to every home in Darwin. The pamphlet reassured citizens that: 'Larrakia want the public to continue to use and enjoy public areas and beaches as they always have' (NLC 1996a).

The claim was announced during the return to Lee Point by Bob Bunduwabi's group, discussed in Chapter Six, but did not involve Aboriginal fringe dwellers in Darwin. Under the legislation, the claim was specific to a defined language group, which has been even more narrowly self-defined by the *danggalaba* dissident claimants of the Larrakia people. Using the resources of the Northern Land Council, the Larrakia language group, 'new tribe',[23] or 'nation',[24] defends its existence within the legal processes of the Native Title Act. Under that Act, Aboriginal representative bodies assist the Larrakia people to claim unalienated land in Darwin that has also been occupied and used by fringe dwellers.

As an indication of past relationships between Aboriginal groups in Darwin, the Interim Aboriginal Land Commissioner, Mr Justice Ward had recommended in 1975 that the Kulaluk land be granted to Aborigines:

> for the purpose of establishing, developing and maintaining a communal settlement for the use of Larrakia and other associated Aboriginal people and ancillary purposes. The Larrakia themselves have indicated their agreement with other compatible people having use of the land, which, in area (some 847 acres) would appear to require a use more extensive than that of the Larrakia alone (Ward 1975:15)

Although Local and Territory Governments have refused to consider the further needs of fringe dwellers in town planning, they now refer to the Larrakia native title claim as a further difficulty in meeting fringe dwellers' requests for land. The complaint of discrimination by Lee Point evictee, Bob Bunduwabi, stated: 'The land at Kulaluk is Larrakia land, and he felt uncomfortable being on it'. In reply, the Department of Lands, Planning and Environment confused the special purpose lease held by the community at Kulaluk with the recent Larrakia claim. The department wrote: 'The land at Lee Point, too, has been nominated as alleged Larrakia land (refer to the current claim before the Native Title Tribunal). His apparent lack of discomfort at Lee Point has not been explained and, in any event, is irrelevant'.[25]

Similarly, a Northern Territory Government submission in 1982 said of applications for town camps:

> much of the land has been allocated to groups who have no traditional rights in the area and this had been of concern to those Aboriginals who consider it to be their area of traditional influence. They had complained that the land has been granted to tribal groups from elsewhere without any reference to them and often against their wishes (NTG 1981a:2167).

In the first weeks of the occupation of vacant Crown land at Lee Point by Bob and his group, an appeal was made to the Larrakia for support. Alongside an article quoting the NT Chief Minister, warning that Darwin residents 'may have to pay to visit their favourite beach or picnic spot', was a photograph of George from Fish Camp over a heading, 'Campers: help us Larrakia' (*NT News* December 9, 1996). The article continued:

> He said the Larrakia, who have claimed native title to huge tracts of crown land in Darwin and Palmerston, could help the Lee Point Camp residents by demanding camp rights on their behalf. Mr Banbuma said: 'We support the Larrakia. They should support us'.

Despite the commitment of individual Larrakia friends of the Burarra fringe dwellers, during my fieldwork no official comment was made by the Larrakia Nation on the plight of other Aboriginal people camped in the native title claim areas. Meanwhile the government used native title claims over Darwin vacant Crown land to avoid considering the land needs of the homeless. Although exchanges continued, to a limited extent, between Larrakia people and fringe dwellers, in land matters there appeared to be little consideration from Aboriginal representative bodies that the interests of the two Aboriginal groups may be complimentary.

Amongst the fringe dwellers in the Darwin area, I regularly observed line, set net and cast net fishing, crabbing, spearing stingrays, gathering many varieties of shellfish, digging yams, harvesting grubs, mangrove worms and wild honey, picking bush berries, killing and eating various reptiles and on one occasion, digging turtle eggs from the beach.[26] Other bush foods, like kangaroo tails, geese, and fresh and saltwater turtles were purchased from shops or traders who visited the camp. All were cooked on open fires at the camp or on hunting and gathering excursions. Coulehan (1995a:193) also notes how Yolngu groups regularly gather to hunt and fish in the Darwin

environs. Coulehan (1990:7) suggests: 'Traditional Aboriginal usage ought to be a major consideration in foreshore and parkland management and in Darwin urban and immediate rural-area planning'. She claims that the urban Yolngu, 'have cultural-specific needs in relation to economic and recreational use of foreshore and parkland and of mangroves and bushland in Darwin's environs'(p.7).

Fringe dwellers believe they maintain an Aboriginal presence on vacant urban land by agreement with Larrakia elders and daily assert the Aboriginal entitlement to forage and move across the land. The continued practice of this right is also a consideration in native title claims. Although they do not claim ownership in Aboriginal law, fringe dwellers and others explicitly connect their use of the landscape and closeness to the soil to their special relationship with the land as indigenous people. Similarly, Povinelli (1991, 1993a, 1993b, 1995a, 1995b) illustrates how Aborigines on the Cox Peninsula 'use hunting, fishing, collecting, and just plain sitting in the countryside as methods to position their rights vis-a-vis sites' (Povinelli 1993a:31). To my knowledge, the hunting and gathering activities by Aboriginal fringe dwellers across the Darwin landscape have not been contested by the Larrakia Nation or government authorities, apart from isolated prosecutions for killing protected species on public reserves.[27]

7.6 Supporting the Larrakia

Unofficially, there were occasions where the Larrakia people confirmed the continuing relationship between the landowners and the campers. An elderly Larrakia man also lived at Fish Camp and had camped with the Burarra at Lee Point in 1995-6. Two women who claimed to be Larrakia made a purposeful visit to the Lee Point camp in May 1997 to offer their approval of the protesters' aspirations. Also the spokesperson for the Larrakia Nation brought overseas visitors to Fish Camp to 'meet Aborigines' and to see how they live in Darwin. As I have recounted, this man also

offered support for Johnny Balaiya at his Palmerston camp when he was under threat of eviction in August 2001 (see *NT News* June 5, 2001). Because Johnny was well know by the older Larrakia people, they promised him conditional support. In *Kujuk* (September 2001), Johnny Balaiya was quoted:

> Larrakia people they say we love you, we got to visit you there ... because we remember you and you know our old people and [when] we [were] little boy time and we seen you there. Our father and grandfather tell us, we seen you Northern Territory.

June Mills[28] and her family, who are members of the Larrakia group, often visited the camp and slept there to protect the people when they were under threat at night from unknown youths shouting threats from passing cars. When the Kulaluk management threatened to close Fish Camp, the camp was temporarily renamed and signposted as 'Mills Camp'. Members of the Mills family, pointing to the prominent sign they had erected, told the campers, 'If the Kulaluk mob try to kick you out, tell them to see us'. June Mills also founded the Darwin Longgrass Association in 2001, contributed to the first two editions of the newsletter *Kujuk* and aided its distribution amongst the fringe camps. She was pictured addressing the fringe dweller protest outside Parliament House on August 3, 2001 (see *NT News* August 4, 2001).

The only Aboriginal member of the Darwin City Council, who identifies as Larrakia, has spoken out for Aboriginal people living in the scrub around Darwin. Picturing her with a homeless group in a park, the *NT News* (April 6, 2000) reported: '[Dorothy Fox] believed shelters, for short-term accommodation, and bathroom facilities should be considered. She said: "This is something the Commonwealth and the NT Government, Local Government and Aboriginal organisations should address"'. This remained

Ms Fox's policy in the Darwin City Council election campaign (*NT News* April 29, 2000), which she lost.

In response to criticisms of 'itinerants' by a spokesperson for the Larrakia Nation, an Aboriginal woman who described herself as a 'Larrakia supporter of cultural differences' wrote in the *NT News* (June 13, 2001):

> Those at ATSIC and Larrakia Nation, in their rush to clean up the Johnny Balaiyas of the Darwin community, just remember the moral and legal rights they have to the same extent as those suited by the dominant culture dictates, that condemn the rest of us to living in boxes.

In a further demonstration of solidarity, during my fieldwork in 1997 the May Day parade in Darwin was led by six homeless Aborigines in a line across the road, carrying a six-metre-long banner proclaiming the Larrakia nation, assisted by a sole representative of the Larrakia people. This banner was painted by Larrakia people who, on the day, were reliant on the contingent of fringe dwellers to carry it. Many others from the camps walked behind them. According to the *NT News* (May 6, 1997):

> Racism was the target of more than 500 marchers who celebrated May Day yesterday. Marchers carried placards with 'Larrakia: we are citizens too' and 'Racial division is the tool: oust the CLP' as they marched through the city centre.[29]

Another expression of Larrakia-Fish Camp solidarity was the performance by the 'Larrakeyah Dancers' in the government-sponsored 'Ausdance: "your culture, your dance" spectacular' on May 3, 1997. Under the direction of an enterprising Larrakia woman, who was a friend and supporter of Fish Camp, hasty rehearsals of well-known Arnhem Land dances were held at the camp

by a mixed group of Gunavidji, Burarra and Yolngu men and women. The group then travelled in a minibus to a suburban open-air amphitheatre for a night performance before a large crowd picnicking on the lawns. 'The Larrakeyah Dancers', daubed with white clay, were the last item listed on a long program of costumed ethnic dancing. After a few quick dances, the Fish Camp troupe received their share of the payment and returned to camp to celebrate. Although the motivation was largely monetary, the ties between traditional owners and fringe dwellers appeared to be strengthened by the evening's events.

7.7 Native title extinguished

Despite arguing that the Larrakia native title claim prevented consideration of a new town camp at Lee Point, the NT Government approved development on other vacant Crown leases covered by an earlier Larrakia claim. In *Fejo and Mills (on behalf of the Larrakia people) v the Northern Territory and Oilnet (NT) Pty Ltd*, the Larrakia appealed to the High Court, claiming that although the land had been held under a freehold title before the Commonwealth acquired it in 1927, native title rights had not been extinguished.[30] On September 10, 1998 the High Court of Australia unanimously dismissed the Larrakia appeal. The court ruled that native title had been extinguished when freehold title had been granted to the land in 1882, although it had later reverted to the Crown (Devereux 1998; Strelein 1999:18; *Australian* September 11, 1998; *Land Rights News* February, 1998, p.20).[31]

The finding suggests 'native title is seen to occupy a subaltern status in relation to other forms of title and is inserted at the bottom of the hierarchy of recognised tenures' (Strelein 1999:19). According to Strelein (p.19), the judgments give support to native title as a bundle of rights and interests under Australian law rather than the recognition of indigenous systems of law and culture. As the findings show in this case, the form of native title

sought by the Larrakia and others is one defined by the court, and not ultimately by Aboriginal use of the land. Or as Merlan (1995:65) points out: '[Native title legislation] assimilates [native title rights] to the existing class of property rights at common law' (see also Wolfe 1994:134).

Concerning the vacant Crown land claimed by the Larrakia Nation, Justice Kirby stated:

> Doubtless the bundle of interests we now call 'native title' would continue, for a time at least, within the world of Aboriginal custom. It may still do so. But the conferral of legal interest in land classified as fee simple had the effect, in law, of extinguishing the native title rights (Strelein 1999:20).

Across the harbour the connections between landowners and occupiers is even more complex, as documented by Povinelli (1993a:53):[32]

> At Belyuen Aborigines perform their rights and duties over the Cox Peninsula region without claiming the title 'traditional Aboriginal owner' - an outright claim, on one hand, with which Belyuen Aborigines are generally uncomfortable and, on the other hand , which would create a serious if not irrevocable social and political rift between the Wagait-Beringgen and Darwin Laragiya.

The rift has now widened, and the Wagait-Beriggen have contested the Larrakia claim to the Cox Peninsula, to safeguard their future (see Povinelli 1995b). In earlier times Brandl et al (1979:169) reported in the Larrakia claim book: 'The traditional owners too, have always been at pains not to exclude others who have been exercising rights and responsibilities in the area and always referred us to them' (see also *Bunji* June 1980). Nowadays the revitalised urban-based Larrakia tribe does not have such a close consociate

relationship with language groups from elsewhere camped on their land. This chapter suggests that Larrakia group also appear to have greater access than the fringe dwellers to Aboriginal representative groups.

Although elements of succession to land, variously described by Peterson (1983), Sansom (1980b:3) and Povinelli (1993a:134), are evident amongst fringe dweller groups in Darwin, the process has been negated by the remarkable revival of the Larrakia Nation.[33] Also the process of 'mixing' (Brandl et al 1979:) and cultural sharing noted by Walsh (1989b:3), which I also noted in the fringe camps of the 1970s and 1980s, has been severely limited by the differing life styles and aspirations of urban Larrakia people and 'long grass' Aboriginal groups.

Unlike earlier generations, unhoused fringe dwellers and the urbanised Larrakia people are 'on different sides of the fence'. As Merlan (1998:140) documents in Katherine, Aboriginal identity has been shaped by 'the nature of differentiated relationship to the town'. Merlan (1998:147) also notes how, 'Reified understandings of Aboriginal organization also now enter into the way socio-territorial designations are used among Aboriginal people'. Although no Aborigines dispute the Larrakia as traditional owners, the interpretation of customary law amongst fringe dwellers now conflicts sharply with the claims of the 'neo-classic' Darwin new tribe.

Sutton (1999a:27) emphasises that residence gives privileges, not rights, according to indigenous tradition. According to Sutton, the privileges of foraging and participating in ceremonies (which Aborigines living on Larrakia lands enjoy) do not equate with the right to make decisions about:

> excavating deep holes, mass clearing of vegetation, and the introduction of outsider work forces. To conflate all these with berry-picking and skink-roasting under the heading of 'economic rights' is

> to ignore the distinction between important business involving economic and social change, on the one hand, and business as usual on the other.

In contrast, arguing for the rights of Aboriginal people living on and 'looking after' Larrakia land, Povinelli (1991, 1997, 1993a, 1993b) seeks to 'increase the worth of hunter-gatherer productivity', particularly women's labour. According to Rose (1996:300), Povinelli (1993a) aims 'to encompass and theorise that which conventional political economy marginalises or excludes: the work of producing social relations and knowledge'.[34] Sutton (1999a:28) comments that Povinelli's (1993a:3) challenge to 'the subordination of foraging to social and cultural expressions of land attachment as it exists in the Land Rights Act', does not justify 'a collapsing of the categories of ancestral affiliation and long-term resident'. To strengthen the case of ancestral affiliation to land, Sutton (1995b:10) believes in moving away from 'an inherently conflict-prone system [of the relative indeterminacy of indigenous people's land relationships] towards the greater certainty and stability [Aborigines] might hope to achieve from engagement with the western legal system'. As I have argued, it is this legislative system which further marginalises the 'berry-picking and skink roasting' of Darwin fringe dwellers in the cause of an agenda determined by Australian economic and legal systems, which have yet to offer any concessions to fringe dwellers.

7.8 Fish Camp and Aboriginal representative groups

In the following sections of this chapter, I discuss the relationship between the Burarra fringe dwellers and groups that have been established to represent Aboriginal people in their dealings between each other and with the dominant society. I suggest that these groups have not responded to fringe dwellers' needs, leaving fringe dwellers to express resistance outside organisations that have otherwise acted to mediate Aboriginal opposition.

7.8.1 The Northern Land Council

The Australian December 2, 1996 reported on the Larrakia native title claim under the heading, 'Capital backlash as blacks claim city land'. The article continued: 'The powerful Northern Land Council yesterday backed a landmark native title claim over beaches, reserves and parks in Darwin ... The head of the NLC, Mr Galarrwuy Yunupingu, defended the claim, saying the Larrakia were only asking for what was rightfully theirs under native title law'. According to the NLC chief executive officer: 'The NLC supports the Larrakia's call for the NT Government to negotiate to ensure that developments proceed swiftly and efficiently for the benefit of all Territorians' (*NT News* December 7, 1996).

Prior to the Larrakia native title claim, a letter was sent from Fish Camp to the NLC signed by Dulcie's husband, George Banbuma who is an acclaimed songman of the Djinang people from the Ramingining area of northeast Arnhem Land. His letter ended: 'We are not fighting to drink in a public place. We only ask that more land be made available for Aboriginal needs in Darwin. If you can help, please come and talk with me at Fish Camp or I can come to your meetings'. Although he was confident the NLC would listen to him, George was not asked to speak and no NLC representative came to Fish Camp. However, the NLC chief executive officer did write to the Anti-Discrimination Commission (ADC) in support of Bob Bunduwabi's complaint against the city council. The CEO added:

> Our statutory functions under the Aboriginal Land Rights (Northern Territory) Act 1976 do not allow us to intervene in this matter to any extent, however we are concerned that there has been a breach of human rights and are anxious for the complaint to be resolved satisfactorily and speedily.[35]

Although the NLC regularly makes statements on issues of importance to Aboriginal people in the NT, they remained notably muted after the publicised attacks by the mayor on fringe dwellers and other homeless Aboriginal fringe dwellers. After the Larrakia claim, the NLC became even more unwilling to support the fringe dwellers. They replied to a request for legal advice:

> We had conducted a preliminary investigation into this matter and, as a part of that process, obtained the advice of [a lawyer] on some of the legal issue involved. We also carried out some consultations with the Larrakia about the matter.
>
> In the course of carrying out those consultations, it became apparent that, were the NLC to formally act in the matter, there was the potential for a conflict of interest to arise in us also acting for the Larrakia in their native title claims. I also note that, strictly speaking, the NLC has no formal statutory role in the Lee Point matter.
>
> In light of these circumstances, the NLC has declined to formally act in the matter and we have referred the matter back to [a lawyer] of NAALAS. The NLC does however have a continuing informal interest in the matter in the wider context of addressing a variety of town camp issues vis-a-vis the Larrakia's native title claims. This issue will take some time to work through.[36]

Thereafter, the problem of 'conflict of interest' was always introduced when people from Fish Camp or Lee Point approached the NLC, including at a meeting between Bob Bunduwabi's brother (the longest serving NLC delegate), myself and a NLC lawyer after our eviction from Lee Point in May 1997.

One statutory role that the NLC was accused of failing to carry out during my stay at Fish Camp was consultation of traditional owners. Although Sutton (1995b:3) suggests budgetary restraints may prevent 'the diaspora people' being consulted during research by anthropologists, the experience of people of the Gurrgoni dialect at Fish Camp, from an area to the southwest of the Blyth River mouth, suggest it is more likely that fringe dwellers become non-persons in consultations by landowner representative groups. However, people camped around Darwin are interested in decisions about their country and an urban residence does not exclude them from ceremonial duties, apart from the logistical difficulty of returning to their homelands (see Coulehan 1995a).

In October 1997, two Gurrgoni-speaking men at Fish Camp were shocked to read in the media of the proposed shooting of limited numbers of crocodiles in their traditional estates near Maningrida (*NT News* October 2, 7, 1997; Schulz 1997).[37] I helped the senior traditional owner lodge a complaint to the NLC and arranged for him to speak on talkback radio. As a result of his actions, he and his brother were driven by the NLC to a meeting at the Nangak outstation, on the Gurrgoni homelands, to discuss the issues. At the same time, the man claimed that he had not received royalty entitlements, which is a common complaint of Aboriginal traditional owners living in Darwin.[38] Later, the harvesting was temporarily discontinued after complaints by the 'Baru [crocodile] people' who have the crocodile as their totem (*NT News* March 9, 1999).

7.8.2 North Australian Aboriginal Legal Aid Service

Fringe dwellers were supported by the executive officer of the North Australian Aboriginal Legal Aid Service (NAALAS) when a woman was held in custody for 15 hours after complaining of being raped. A detective told the NT Ombudsman that, comparing the facilities, care and attention provided by the watch house with the living conditions of her Darwin camp,

'it is reasonable to conclude that custody did provide [the complainant] with a number of benefits that outweighed any detriment' (*Land Rights News* July 1996). At the same press conference, the NAALAS executive officer claimed that the NT is now the only place where it is an offence to be homeless. She stated that: 'They must know that these people can't pay these fines and will end up spending time in custody when the fines aren't paid' (*Land Rights News* July 1996).

In response to requests for legal aid in a complaint against their threatened eviction from Lee Point in December 1996, a group from Fish Camp were given an appointment with a legal aid lawyer. NAALAS then wrote to the NLC asking if they would consider acting for the Lee Point campers. The NLC engaged a lawyer to carry out a preliminary analysis. They wrote to NAALAS:

> This matter is one that probably does not come within the role of the NLC under the *Aboriginal Land Rights (Northern Territory) Act 1976*. It may have some relevance to our role under the *Native Title Act 1993*. I consider that the matter would come within the scope of the work of your organisation but I understand your preference that we have primary carriage of the matter. In these circumstances, I would be grateful to know if NAALAS would be prepared to meet 50% of the costs of obtaining such preliminary advice on the understanding the NLC would fund the other 50%.[39]

Again the fringe dwellers find themselves in a liminal space where representative groups argue over their responsibilities. At the hearing for the extension of the interim order for stay of eviction from Lee Point in January 1997, the NT Government sought leave to be represented by a solicitor 'ready to attend immediately'. A conscientious but untrained young supporter named Caroline, opposing well-informed senior public servants, represented

Bob Bunduwabi at the ADC. The only concession to her by the Commissioner was the right to an adjournment at any time to seek legal advice. When the Commissioner asked the government representative for a response to Bob's complaint, he answered: 'Apart from having the matter legally checked, I'll have that complete this evening. I could probably have it to you this evening. I think I could get our legal practitioners to attend to it in that time'.

In contrast, the Commissioner said to Bob's supporter, Caroline: 'I know how hard it is to push lawyers. I've carefully read these letters from the NLC [concerning legal representation] which are careful not to say much'. She gave a five-minute adjournment to enable Caroline to contact the lawyer or the NLC before making a final extension of the interim order of stay of eviction. When the hearing resumed, Caroline reported:

> I just spoke to [the lawyer]. He has a brief from the NLC or rather, yes a brief which they are seeking advice. He said, he says it won't be available to the NLC for two weeks - his advice. His advice... is that he doesn't act on behalf of Bob Bunduwabi and family, but acts on behalf of NLC. So I then rung the NLC and spoke to [a lawyer] out there and he says they do not act on behalf of Bob Bunduwabi and his family until they receive the advice from [the briefed lawyer]. And just as an extra additional thing, it was more my query like why's this taking so long, and part of it is because they need to consult Larrakia people which is a time-consuming process. In short we don't have legal representation until the advice is given by [the lawyer] on the merits of the case, and the NLC will only take it up pending the merits of the case.[40]

The Commissioner answered wryly, 'That must be very helpful to you', before ordering a stay of eviction for another three weeks.

7.8.3 ATSIC

I wrote to ATSIC on behalf of the camp in October 1996, beginning: 'On behalf of the people camped in the scrub on Kulaluk land ... I beg for some emergency water supply'. I detailed the complaint to the ADC and concluded: 'While their complaint is being heard, which may take time, their need is absolutely urgent. Something temporary like a water tank which could be delivered immediately and topped up regularly'.[41] The reply advised: 'Please be advised that ATSIC funds the North Australian Aboriginal Legal Aid Service to represent the legal needs of indigenous residents of the area. This funding allows the pursuit of legal cases of significance for the rights of indigenous people'.[42]

Candidates in the ATSIC elections visited the camp prior to the complaint, but there was no remedial action. However, on October 8 an Aboriginal team from the electoral office arrived in the camp to erect a mobile ATSIC polling booth. The fringe dwellers were then given their democratic right to vote for an ATSIC delegate. Dulcie later complained: 'They was talking a lot about water, they going to put a tap here, but they only wanted us to go through the election. They make promises but nothing happens'.

Later, ATSIC explained that they were unable to help because it is necessary to have land title before a town camp can be established. The state manager wrote:

> I understand your concern for the plight of the people at 'Fish Camp' and the environmental health problems that these living arrangements have created. However at this stage no application for funding has been received by the Aboriginal and Torres Strait Islander Commission to provide assistance for these people. As you are aware it is necessary to have land title before a town camp can be established

> and given the response you have received from the Northern Territory Government, ATSIC would not wish to breach government regulations by providing any assistance which contravenes these.[43]

Two months later, the state manager replied to my reply:

> I can only reiterate that advice which concerns the necessity to have land title before a town camp can be established and that the area you identify [Lee Point] is the subject of a Native Title claim lodged by the Larrakia people. Within these constraints there is little more that can be done to formalise this area as a town camp.
>
> I continue to recognise the difficult plight of these people but until some security of tenure to the land is resolved there is little physical or financial aid that can be offered either on a permanent or temporary basis as the problem is basically one for the Northern Territory Government to resolve.[44]

In contrast to this hesitancy to act, in late-1997 an international charity supplied tarpaulins to Fish Camp, to shelter the group in the wet season (see Appendix III). Earlier in the year, generous anonymous donors in Darwin had supplied a transportable water tank to Fish Camp (see *Green Left Weekly* September 24, 1997); however, the $100 fee for a water carrier to refill the tank (see Plate 9) made the cost of an essential service excessive. Residents paid this extra cost until 1999, when the Aboriginal Development Foundation began a regular water delivery, as it had in past years to other Darwin camps. In the previous three years no Aboriginal representative body or Local and Territory Government agency had been able to respond to Fish Camp's urgent need for water.

7.9 Conclusion

Although Macdonald (1997) argues that claims for rights by 'historical people' can be more easily accommodated by Australian social justice systems, this does not appear to be the case in Darwin. Without recognition of their special needs fringe dwellers have been unable to have their claims acted upon by Darwin authorities, as Chapter Six illustrates. The reasoning of the Department of Lands, Planning and Environment is that no distinction should be made between races in considering the fringe dwellers' demands for a camp at Lee Point. This resembles the reasoning that Merlan (1994:15) suggests caused the Fraser government to re-draft the proposed Land Rights Act. That is: 'no "needs" criterion could apply because it would create an invidious distinction, allowing Aborigines to claim on this basis, while others could not'. In this case, 'historical' people are disadvantaged in comparison with 'traditional' people, who have made their demands through land rights legislation.

In the above sections I gave data from my fieldwork that indicates that the lack of recognition for needs claims by 'historical' people in the legislation, and the growing recognition of the Darwin traditional owners, supported by anthropological literature, has contributed to the marginalisation of fringe dwellers in Darwin. As Rowley (1978:77) stated: 'There is urgent need for support of Aboriginal movement into towns. This [Land Rights] Act leaves them on the fringe where their attempts at urbanisation have been frustrated for generations'.

Hale (1996:18) notes that Aboriginal people in Townsville, North Queensland, were divided on the demands of Aboriginal 'park dwellers' who camp in public places. However, at least the Townsville groups agreed on the need for 'sensitivity and compassion', for Aboriginal people to work with Aboriginal people and to involve park dwellers in developing strategies to address their needs (Hale 1996:18). In Darwin, the above data gathered

during my fieldwork illustrates that, to the time of writing, Aboriginal representative groups have had little to offer fringe dwellers.

In discussions with urban Aboriginal people in 1997, I was told that more positive role models are needed to replace the 'poor bugger me' image. They and many Aboriginal organisations reflect a shift in attitude from 'a defensive, reactive or confrontational tone' in Aboriginal resistance towards a 'more positive form of self-representation', noted by Tonkinson (1998:302, 1999:141). Furthermore, other Aboriginal residents in Darwin complained to me that the homeless people from Arnhem Land already have land rights and 'now they want our land... We can't go and camp in their land'.

As discussed in Chapter One, Jones and Hill-Burnett (1982:224) claim that, since 1972, Aboriginal organisations have become integrated into the structures they originally attempted to combat. Scott (1985:298) points out that having 'no centre to be co-opted' is an advantage of the hidden resistance that I maintain is a tactic used by unincorporated fringe dweller groups in the hostile environment of the towns. My fieldwork suggests that organisations like ATSIC, NAALAS, ADF, the Northern Land Council and the Larrakia Nation have been constrained in their support for the Burarra fringe dwellers due to 'conflict of interest', the campers' lack of legal land tenure, insufficient funding and other differences I have mentioned in this thesis.[45]Dulcie expressed the lack of support fringe dwellers get from Aboriginal organisations in Darwin in her interview with Sally Mitchell:[46]

> ATSIC mob came for elections and Bill and my husband they went to see [Aboriginal] Legal Aid. They never come around to see us.
> Sally: Do you get support from any of the Government mob?
> Dulcie: No, not really. Only Bill Day, he's the only one supporting us - he's trying his best. Danila Dilba [Aboriginal Health Service], they can't do nothing.

Without outside help, the need for fringe dwellers to negotiate through the bureaucracy surrounding most Aboriginal and government organisations makes access to these bodies unlikely. In the case of the Lee Point evictions, which required urgent action, I have shown that the only defenders able to respond in time to assist the campers were informal activist groups who, in most cases, also acted without access to the resources of government-funded bodies. In conjunction with the negative government response to fringe dwellers' claims, the examples in this chapter can be interpreted as further illustrations of unsuccessful attempts by fringe dwellers to reach across difference, in acts of 'merging'. In the next chapter, I give more successful examples of allegiances formed between fringe dwellers and other groups who appear to maintain resistance to the values of the dominant society.

Endnotes:

[1] For example, in Tennant Creek, Walpiri fringe dwellers are in dispute with the Warumungu traditional owners of the town area (*Weekend Australian* June 24-25, 2000, p.1).

[2] Tonkinson (1999:137) adds that only 10-30% of Australian Aboriginal people are potential beneficiaries of the native title claim process.

[3] The Larrakia Nation were one of several Aboriginal organisations sponsoring a study of 'itinerants' in Darwin. However, a workshop at Nungalinya College in Darwin on 17 July, 2001, to consider the preliminary findings by Memmott and Associates (AERC 2001) was told that an option which was not available was the setting aside of land for itinerants.

[4] Sutton (1999b:15) defines 'a system' as: 'an assemblage of things which are somehow correlated or coordinated among themselves, and in which there is an ordered complexity of some degree'.

[5] The man Sutton (1999b:53) mentions as a senior patri-descendant was the brother of Fred Fogarty's wife at Kulaluk during the struggle of fringe dwellers in the 1970s. The man's brother was one of those who raised the flag to claim Darwin in 1971.

[6] The quotes used come from extensive notes I made during Sansom's seminar at the National Native Title Tribunal in 1999. As an example of the fluidist analysis, Sansom (1999) cited Merlan's (1998:216-223) recounting of the 'discovery' of a catfish dreaming near the Rockhole Camp in Katherine, as residents began to develop ties to the location.

[7] Sutton (1998:103) notes that his text is adapted from the Larrakia claim book (Sutton 1995). Elsewhere, he (1999a:29) points out that he is involved in the 'contentious and long-running Kenbi Land Claim, Povinelli for the Belyuen group and myself for the Larrakia group...'

[8] As my evidence suggests, Sansom (1980a:190-1) does not adequately describe the fringe dwellers' struggle for space, their involvement with the state, allegiance to 'predetermined hierarchies of status and rank' and their corporate commitment to place.

[9] Although, as Trigger (1997) demonstrates, there is also a self-conscious Aboriginal use of the 'politics of culture' in land claims, this arguably originates from anthropological discourse.

[10]References to Sutton's 1999 paper are from my notes made at the time.

[11] Sansom (1980a:11) also noted how Wallaby Cross was 'mixed', with fourteen different language groups, claiming to be all 'the same', united in 'that Darwin style' (see Sansom 1980c:3).

[12] Sally Mitchell and I wrote a report on Fish Camp for *Green Left Weekly* (November 20, 1996, p.7). Also available at <www.greenleft.org.au/backissu.htm>

[13] While the ABC 7.30 Report was filming at Fish Camp, the journalist Geoff Thomson was challenged over his right to film on Kulaluk land.

[14] By 2001, the gate across the track into the lease was permanently locked, with a sign on it stating: 'BURIAL GROUND ON THIS LAND. PRIVATE PROPERTY. NO ENTRY'.

[15] See also *NT News* May 19, 1981; *Darwin Star* October 28, 1981; *NT News* 24 and 25 September, 1984).

[16]By 2001, the aquaculture ponds were abandoned and the entire infrastructure removed, except for a line of steel power poles. According to the planning permit, the area must be restored after the cessation of the scheme.

[17] *Kujuk* can also be viewed on the internet at http://geocities.com/kujuk2001/

[18] Layton (1986:24) contrasts Sansom's descriptions of the social fluidity at Wallaby Cross with 'the stability built around the Aranda [traditional owners] core of camp residents [in Alice Springs]'.

[19] The Larrakia elder who began the Kulaluk land claim was buried on the lease in 1984 (see Day 1994:130). Since his death, the landowners have allowed at least eight burials in the area that was once a part of the Bagot Reserve assigned for Aboriginal burials. Prior to the reopening of the burial ground, the only visible evidence of graves was a few Tiwi burial poles and a wooden cross inscribed to a man from Elcho Island, to the east of Maningrida.

[20] The ABC television report associated the flag rising with the slow progress of the long-running Kenbi Larrakia land claim.

[21] For internal political reasons the Kulaluk lease was excluded from the native title claim to appease the Larrakia elders living there.

[22] In earlier claims, the Larrakia *danggalaba* (crocodile) clan, which includes 'all people who have a filiative link to some members of the *danggalaba* clan' (Walsh 1989b:1) was said to be the local descent group for the Darwin area. A dissident, more narrowly defined group, led by Tibby Quall (see Olney 1991:28-30) has made native title claims to various blocks around the city prior to the Larrakia native title claim made in December 1996.

[23] Sutton (1998:104) defines the new tribes as emergent groups now quite widely found in Australia as a consequence of the gradual collapse of earlier systems. New tribe members trace descent from antecedent landowners, are 'accepted relatively uncontroversially' as members and self-identify with the group and the land. The new tribes are also termed

'language groups', in the sense that the members own the language and the right to use it in their title, but it is not required that they speak the language (p.104).

[24] *Larrakia News* (2) February 1997, a newsletter 'published by the Northern Land Council for Larrakia people', announced that 'ATSIC has approved funding for the establishment of the Larrakia nation office'. Advertisements for the position of coordinator (*NT News* June 20, 1998) state: 'It is envisaged that the Nation will be a major contributor to the cultural, social and economic life of the Darwin region'.

[25] Letter from Assistant Secretary, Department of Lands, Planning and Environment to the Delegate of the Anti-Discrimination Commissioner, 17 January 1997.

[26] An elderly Darwin Aboriginal man, who claimed to be Larrakia, lived at Lee Point, Knuckeys Lagoon and then at Fish Camp with his Burarra partner until he died while fishing alone in the mangroves near the camp (see Simmering 1997; *NT News* November 21, 1998).

[27] The Larrakia people also hunt, fish and gather bush foods from the landscape of the region (Carey and Collinge 1997:23). One fringe dweller told me he had been fined for killing an ibis at a popular picnic reserve. At the Berry Springs zoo I had to advise friends against catching the long-necked turtles.

[28] June Mills is a musician, songwriter, poet, actor, graphic artist, aspiring politician and a past president of the Larrakia Association (Mills 1995:45).

[29] In contrast, apart from Larrakia banners, no placards were planned for the National Aboriginal and Islander Day march in July, 2001. Although the national slogan was 'Treaty - let's get it right', in Darwin the official slogan was 'Larrakia land - treat it with respect'. None of the Burarra campers participated in the march. June Mills for the 'Longgrass Association' was the only dissenter against the placard ban.

[30] *Fejo and Mills v The Northern Territory Government and Oilnet Pty Ltd*.

[31] See also *Australian Indigenous Law Reporter* 1999, 4(1):36-58.

[32] See the collection of stories from the Belyuen area by Marjorie Bil Bil (1993:3) and the poem, 'They used to dance all night', which begins:

> Once upon a time there were six language groups.
> One was Larrakiya.

The poem ends:

> The older people used to sit around the campfire
> and tell the stories to younger children.
> Even the older women
> go out with the younger ladies
> to hunt for bushtucker.

[33] Sansom (1980b: 4) notes that Sutton (1980:8) observed the same effect of the Finnish River land claim, although Sansom adds that: 'the "normal process" to which Dr Sutton refers has not so much been interrupted as wholly subverted by [the land claim]'.

[34] Povinelli (1991:240) writes: 'At community meetings, the male president often chastised Belyuen men for not helping the women "keep the culture going" by hunting and camping in the surrounding bush'. Besides 'cueing issues of power, group inclusion and exclusion', she

notes that 'stories that frame activity in the environment create group consciousness and orient people to action, in this case to fight for the land claim case' (p.240).

[35] Letter from NLC to ADC, 16 October 1996.

[36] Letter from NLC solicitor to Bill Day, 3 March 1997.

[37] The Gurrgoni elder usually read the local newspaper when I had finished with it in the camp. If he had access to the internet he could have read that: 'Nangak is the site for BAC's new ranger research station. The aim of establishing the research facility is to have the research data to put in place management plans for future wildlife harvesting' (Carew et al 1996c). According to the dissident newsletter *Gun-Burral* (Volume 1, no.1, 1999): 'Gurrgoni Boretta [people] from Narngark' claim that the area should be called 'Djinkarr'. They are quoted in the newsletter as stating: 'Any balandas that go to Djinkarr are trespassing and we do not want them to go there'.

[38] In my experience, little effort is made to contact landowners entitled to royalties who live in Darwin fringe camps.

[39] Letter from NLC CEO to Acting Director, NAALAS, 13 January, 1997.

[40] NT ADC Transcript of extension of an interim order application by Mr Bob Bunduwabi and Department of Lands, Housing and Environment held at Darwin Friday, 17 January 1997.

[41] Letter from Bill Day to ATSIC, 6 October 1996.

[42] Letter to Bill Day from Senior Admin Officer, Darwin Regional Office, ATSIC, 15/10/96.

[43] Letter to Bill Day from State Manger, ATSIC, 23 September 1997.

[44] Letter to Bill Day from State Manager, ATSIC, 19 November 1997.

[45] Newspaper reports at the time of writing suggest that a funded study of 'itinerants' in Darwin will begin in 2001: 'It is a project between the Aboriginal and Torres Strait Islander Commission, Territory Government, Territory Housing, North Australian Aboriginal Legal Aid Service, Aboriginal Medical Service Association of the NT, Larrakia Nation and the Northern Land Council' (*NT News* February 6, 2001).

[46] See *Green Left Weekly* 20 November1996. Also available at <www.greenleft.org.au/backissu.htm>