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Eighteenth and Nineteenth Centuries in Northern Australia and Contemporary Sea Rights Claims

Australian Aboriginal Studies

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Russell, Denise¹

Abstract: The first native title claim to the seas under the Native Title Act was brought by the traditional owners of Croker Island in the Northern Territory, Australia. This claim was partially successful. The High Court judgement on this case in 2001 resulted in the granting of non-exclusive sea rights. Exclusive rights were not granted as it was argued that the Croker Islanders had not asserted a right to exclude non-Aboriginal fishers in the past. This article looks at the basis for rejecting exclusive sea rights. Through an analysis of the complex relationships between Aboriginal and Makassan fishers in the eighteenth and nineteenth centuries, an argument is made that there could well be a basis in traditional practices for the granting of exclusive sea rights to some Aboriginal communities in the Northern Territory.



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