

# Aboriginal Self-Determination within the United Nations

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## **The Mirrar People's Experience with the UNESCO World Heritage Committee**

*By Matthew Fagan*

The process began when the Mirrar successfully lobbied the UNESCO World Heritage Committee in June 1998 to send a Special Mission to investigate the threats posed to the Kakadu World Heritage Area by the proposed Jabiluka uranium mine.

The UNESCO Mission conducted their investigation in Kakadu, Darwin and Canberra in the last week of October. The Mission met with government, industry, conservation and Aboriginal groups during their visit.

The Mirrar presented a 20,000 word submission to the UNESCO Mission team outlining the history of cultural destruction caused by the Ranger Uranium Mine and the prospect of complete loss of cultural identity arising from the cumulative impact of the proposed Jabiluka project. The Mirrar were also allocated four hours to show the Mission their cultural sites on the Jabiluka Mineral Lease and their living conditions within Kakadu National Park.

In their submission, the Mirrar argued that the ascertained and potential threats to their living tradition and culture posed by further mining on their land required that Kakadu be inscribed on the List of World Heritage Danger pursuant to Article 11, Paragraph 4 of the World Heritage Convention and Chapter III of the Operational Guidelines for the Implementation of the World Heritage Convention.

The Mirrar demonstrated that their living tradition was a key aspect in Kakadu receiving World Heritage status in 1991 under both cultural and natural criteria of the World Heritage Convention and that their living cultural tradition was directly threatened by activities on the Jabiluka Mineral Lease. (The Jabiluka Mineral Lease is wholly within, but excised from, the Kakadu World Heritage Area.)

In late November the seven-member UNESCO Kakadu Mission handed down its Report, finding that the threats identified by the Mirrar were apparent and calling for the Jabiluka project to be scrapped amongst a range of corrective measures. The two Australian Government appointees to the Mission dissented from aspects of the Report.

The 22nd Session of the World Heritage Committee held in Japan in early December adopted the Mission Report in full. However, under heavy pressure from the Australian Government, the Committee delayed their decision to include Kakadu on the List of World Heritage In Danger until the 23rd Session in June, 1999. In the interim the Australian Government must prove that it is undertaking measures to mitigate all the threats identified in the Mission Report via a process of international peer review. If the Australian Government fails to demonstrate that their measures are sufficient, the Bureau of the World Heritage Committee is authorised to automatically include Kakadu on the List of World Heritage in Danger.

The 22nd Session of the World Heritage Committee also called on the Australian Government and mining company Energy Resources of Australia to halt construction of the Jabiluka project until the Australian response to the Mission Report is considered. To date, the Australian

Government has refused to comply with this resolution

The story which has not been told, of course, is what last week's proceedings at the UNESCO headquarters mean for the Mirrar – the people's whose culture was at the centre of the deliberations.

It may be because the Mirrar's historic achievements at UNESCO sit awkwardly outside the debate between the environment movement and the Government. Maybe there's quite a few players in the Jabiluka debate who view the Mirrar as objects, rather than participants, in the whitefella's world of politics.

It will therefore come as a surprise to many that the Mirrar are deeply satisfied with the outcome of the UNESCO meeting.

On their departure from Kakadu for the UNESCO meeting the Mirrar were facing unlimited blasting, drilling and construction in an area of extreme significance leading to full operation at Jabiluka, simultaneous with Ranger, in 2001.

They were facing the distress of having to object to the establishment of an Aboriginal Education Unit in Jabiru because its funding was to be tied to commercial production at Jabiluka. They were facing an aggressive local campaign by the mining company to "educate" the local community about the Mirrar position and a complete breakdown in communication with the Commonwealth Government. They were facing ridicule for fighting for protection of their sacred areas and unique living tradition.

The Mirrar left the World Heritage Committee with at least an 18 month delay on the development of Jabiluka while the mine's cultural viability is assessed. They left with Government funding for the new Aboriginal Education Unit – just like the white school. They left with an apology from the company and a commitment from the Minister to improve his understanding of Jabiluka's serious cultural impacts in addition to prioritising the development of vital infrastructure and service delivery projects.

They left Paris with a Committee representing nearly every nation in the world affirming the unique and essential importance of Mirrar culture and the grave consequences for Mirrar society if Jabiluka proceeds. They left with the knowledge that their leader, Yvonne Margarula, had been the first indigenous Australian to address the World Heritage Committee; that she had done so in the Mirrar language and had spoken with a profound dignity recognised by all delegations.

They left Paris with a firm assurance from Senator Hill that cultural concerns would be paramount in upcoming decisions on Jabiluka's future and a guarantee from the World Heritage Committee to closely examine Australia's response to these "serious impacts" within the framework of "In Danger" listing.

Finally, the Mirrar left Paris with something an In Danger listing could never provide – an acknowledgement from a conservative Australian Government that the Mirrar fight against Jabiluka is legitimate and worthy of serious consideration. In other words, there was unanimous agreement that Mirrar culture was in danger from mining at Jabiluka – a result far more important than symbolic recognition on an administrative list.

And the Mirrar achieved all these gains while maintaining their total opposition to all aspects of the Jabiluka Project.

A divergence of views between the Mirrar people's Gundjehmi Aboriginal Corporation and some sections of the environment movement is not an unexpected, nor unique, set of events.

While both the Mirrar and the environment movement have grave concerns about the operation of the Ranger uranium mine and total opposition to all aspects of the Jabiluka Project, there are major differences as to the reasons for this opposition and the methods for achieving the ultimate aim.

For most in the environment movement, the Jabiluka Project is the sole catalyst for their interest in the Mirrar and Mirrar country. For many, this interest will disappear when the Jabiluka Project is stopped.

In contrast, the Mirrar are deeply involved in regional development, cultural heritage, jurisdictional reform and National Park management on Mirrar country based on a connection unfathomable to non-Aboriginal people.

In this way, when the Mirrar and their staff are in any forum in which the Jabiluka Project is being debated - whether it be UNESCO, a Senate Inquiry, the media - they must be able to constructively engage on development matters with those whom they fundamentally disagree with on the Jabiluka issue. To do otherwise would be contributing to the cultural genocide currently taking place in Kakadu.

Unfortunately, there are some in the environment movement who see Aboriginal engagement with Government as the first sign of a "sellout". It was this attitude which reared its ugly head at the recent World Heritage Committee meeting on the status of Kakadu. It is an attitude which is grossly insulting. It ignores the enormous personal sacrifices that the Mirrar have made to protect an invaluable cultural heritage from the Jabiluka Project. It ignores the volumes of research material prepared by the Gundjehmi Aboriginal Corporation as part of the anti-Jabiluka campaign. It ignores the legal actions which the Mirrar are currently engaged in to defeat Jabiluka. It ignores the inextricable connection between Mirrar culture and Mirrar country.

Yet worse still, it is based on an inherently racist notion that the Mirrar will trade-off country and culture based on promises of funding and a nice smile from a Government Minister. Contrary to popular opinion, Aboriginal people are neither stupid nor bad strategists.

Perhaps one startling example will suffice to demonstrate why the environment movement must take stock on their approach to the Jabiluka issue.

On July 12, 1999, the Senior Traditional Owner of the Mirrar people, Yvonne Margarula, became the first Aboriginal person to address the UNESCO World Heritage Committee. She did so in the Gundjehmi language. She spoke with power, authority and determination. She informed the Committee of how the Jabiluka Project would destroy her culture and damage her country. She spoke with the dignity of First Nation leader.

Immediately after this historic occasion, as delegates from nations around the world congratu-

lated Yvonne on her statement, representatives of Australian environment NGO's began complaining that Yvonne's speech "had not been strong enough". This was despite the World Heritage Committee agreeing with Yvonne and finding that the cultural values of Kakadu were facing serious dangers from the Jabiluka Project.

The conspiratorial minds with the delegations of The Wilderness Society and the Australian Conservation Foundation then became convinced that the Mirrar had done a deal with the Government. In particular, it was feared that the Mirrar had given consent for the milling of Jabiluka ore at Ranger – thus removing the major impediment to the Jabiluka Project proceeding.

So after decades of opposition to uranium mining and three years of constant campaigning at much personal cost, the Mirrar were supposed to have thrown it all away for some health and education funding promises made by the Australian Government .

The proposition was (is) insane and insulting.

It should not need to be said, but the Mirrar are totally opposed to the development of any aspect of the Jabiluka uranium mine. Nothing has changed since Yvonne Margarula informed the Northern Land Council of this fact in 1991. There are no deals on any aspect of the proposal with industry or government.

Those within the environment movement who even momentarily thought otherwise need to take a long, hard look at their attitudes to Aboriginal people. When they are ready to respect and trust the primacy of Mirrar decision-making about Mirrar country, they will be welcome to assist in the Mirrar fight.

