THE PRINCE OF THE ABROLHOS, 2020-2023

(On Micronations and Pseudolaw in Western Australia)

[Received February 7th 2024; accepted February 14th 2024- DOI: 10.21463/shima.215]

Vicente Bicudo de Castro

Deakin University <v.bicudodecastro@deakin.edu.au>

Harry Hobbs

University of Technology Sydney <hobbs.harry@uts.edu.au>

ABSTRACT: This article examines the Houtman Abrolhos Micro Nation, established by Kristin MacDonald, a Western Australian man, in 2020. The article draws on media reports and documents prepared by the 'prince' in support of his legal claims. Notwithstanding a curious attempt to draw support from the neighbouring micronation of New Westralia, MacDonald's claims were quickly dismissed by the Geraldton Magistrates Court in 2023, and the micronation has ceased to operate. Nevertheless, its brief existence demonstrates the continuing allure of micronationalism and pseudolaw for some individuals who have allowed what they perceive to be a personal injustice to take on a political dimension.

KEYWORDS: Houtman Abrolhos Islands, Uncle Margie Island, Micronations, Pseudolaw, New Westralia

Introduction

In 2020, Kristin MacDonald, a resident of Geraldton, Western Australia, ran into trouble with the law. MacDonald operated a business offering tours to the remote Houtman Abrolhos Islands.¹ In doing so, MacDonald unlawfully entered a Fish Habitat Protection Area (FHPA), among other alleged offences. When confronted by Western Australia Fisheries Officers, MacDonald struck upon an ingenious – albeit unsuccessful – solution: he declared the state had no jurisdiction because the islands were in fact, part of the 'Houtman Abrolhos Micro Nation', of which he happened to be the 'Prince'. As the Prince of the Abrolhos, MacDonald relied on a bevy of pseudolegal claims to challenge Western Australia's jurisdiction. Alas, for him, none of these arguments were successful.

A micronation is a self-declared nation that performs and mimics acts of sovereignty, and adopts many of the protocols of nations, but lacks a foundation in domestic and international law for its existence and is not recognised as a nation in domestic or international forums (Hobbs & Williams, 2022). Islands are particularly prone to micronational claims (Hayward, 2016). The imagined sovereignty is usually (supposedly) achieved by simply declaring an

¹ Not to be confused with the Abrolhos Archipelago, a group of small islands with coral reefs off the southern coast of Bahia state in the northeast of Brazil. The Portuguese cry *abrolhos* (i.e., open your eyes) was used by sailors to warn of offshore reefs or other obstructions in the sea.

island has seceded from the sovereign country from which the island is under control, claiming an island that is disputed by two or more countries, claiming a piece of land which is regarded as in international waters and not capable of sustaining a claim of sovereignty at international law, or by performatively conquering an island (i.e., 'invasion') (Bicudo de Castro, Fleury, & Johnson, 2023).²

In making a spurious claim of and for sovereignty, micronations might fossick through arcane or obscure legal instruments. This might be for eccentric, performative, political, financial or some other reason. Whatever the motivation, in the process of doing so, they are employing pseudolegal thinking. Pseudolaw is often associated with anti-government ideologies, such as the sovereign citizen movement. It is a phenomenon whereby a person hoping to avoid the ordinary operation of the law will deploy a collection of legal sounding but false rules that purport to be law (Hobbs, Young, & McIntyre, 2024). Pseudolaw is largely incoherent, if not incomprehensible, and impenetrable to outsiders – consider the belief that you do not need to pay your mortgage because Magna Carta guarantees your right to your matrimonial home (*Arnold v State Bank of South Australia*, 1992). Nevertheless, it is not just a misunderstood and misapplied collection of doctrines, instruments, and rules, pseudolaw is an "integrated and separate legal apparatus" (Netolitzky, 2018, p. 4). In other words, although confounding to those operating within the orthodox legal system, it makes sense to those making such claims.

The 'Prince of the Abrolhos' case began in 2020 when MacDonald declared sovereignty over the archipelago and ended in 2023 at the Geraldton Magistrates Court. This brief article provides background on the case, illustrating the continuing allure of pseudolaw and micronationalism for some alienated individuals seeking a get-out-of-jail-free card.³ Not all micronations are created in a pique of frustration and anger with state authority, but as this case study demonstrates, micronationalism remains attractive for those who believe they have been "cheated out of some sort of natural right" (Lattas, 2010). The Magistrates Court in Western Australia does not publish reasons for its decisions or transcripts, so this article draws on discussion about the case published by ABC News (e.g., Angeloni, 2023; O'Connor, 2021), outlets belonging to The West Australian (e.g., Beatty, 2021; Moroney, 2023, Pin, 2022) and documents provided by MacDonald (Sudy, 2023). Information regarding the Houtman Abrolhos Islands is compiled from the Government of Western Australia's Department of Biodiversity, Conservation and Attractions (DBCA) and the Department of Biodiversity, Conservation and Attractions (DPIRD) websites.

The Houtman Abrolhos Islands

The Houtman Abrolhos is an archipelago of 210 islands, islets and rocks surrounded by coral reefs, extending more than 100km from north to south and situated 60 to 80km off the midwest coast of Western Australia. The names Houtman Abrolhos Islands or the shortened version Abrolhos Islands are used interchangeably; the media reports used in this article adopt the shortened version. The Geelvink Channel separates the archipelago from the mainland. There are three main island groups in the archipelago: the Wallabi Group (including North Island); the Easter Group; and the Pelsaert (or Southern) Group (including Uncle Margie Island) (see Figure 1). The Islands are an unincorporated area with no local

² See Shima's (2024) Micronationality Anthology for articles on islands and micronationality.

³ This term alludes to card that players of the board game *Monopoly* may draw that allows them to exit jail without penalty.

government and are thus directly administered by the Western Australian government. The islands are not subject to any native title claim or determination. The WA (Western Australian) Government *Yamatji Indigenous Land Use Agreement* (2021), addressing Yamatji native title claims extends offshore from the mainland but does not incorporate the Houtman Abrolhos Islands. Despite the archipelago not being subject to any native title claim or determination, an artefact, excavated from Beacon Island,⁴ is evidence of prehistoric Aboriginal occupation pre-dating the isolation of the islands from the mainland (Marwick, 2002).

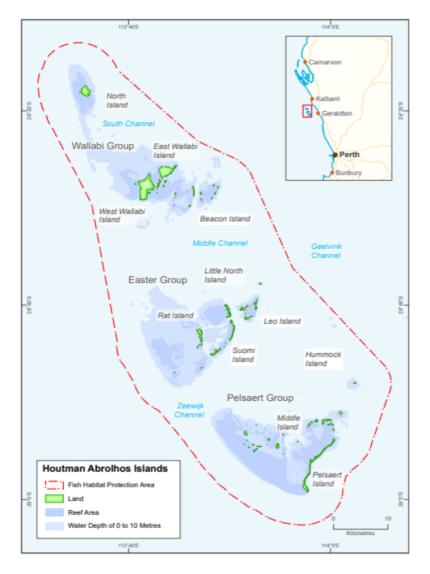


Figure 1 – Map of the Houtman Abrolhos Islands (DPIRD, n.d.)

⁴ Beacon Island is most famous as the site of the *Batavia* shipwreck and mutiny in June 1629.

The Houtman Abrolhos Islands were declared a Class A Reserve in 1929 in recognition of their important recreation and tourism values. Reef Observation Areas were created in 1994, and the waters surrounding the islands were gazetted as a Fish Habitat Protection Area (FHPA) in 1999. The FHPA is managed by the Department of Primary Industries and Regional Development (DPIRD) and the reserve is managed in accordance with the *Land Administration Act* 1997, the *Fish Resources Management Act* 1994, and the lease agreements. In July 2019 the Houtman Abrolhos Islands National Park was created, vested with the Conservation and Parks Commission, and managed by the Department of Biodiversity, Conservation and Attractions (DBCA) under the *Conservation and Land Management Act* 1984 (CALM Act) and the *Biodiversity Conservation Act* 2016. The national park includes most of the islands or parts of islands that are not leased to commercial rock lobster and aquaculture operators.

The waters around the Houtman Abrolhos Islands are an important lobster-breeding site and there are fishing camps throughout the archipelago that have been regarded as a cultural asset:

The fishing camps' distinctive and colourful buildings have a unique aesthetic and social history, providing a colourful contrast to the whitewashed coral outcrops, and make a strong contribution to the identity and sense of place of the Abrolhos. (DPIRD, 2022, p. 40)

Multiple agencies deliver important services that support the management of the archipelago, including the WA Museum, Tourism WA, the Department of Transport, the Department of Health and the City of Greater Geraldton. While several government agencies have statutory responsibilities for management, the primary, day-to-day management requirements are delivered by the DBCA for the national park and the DPIRD for the Abrolhos Body Corporate leasehold lands and the waters surrounding the archipelago.

The Prince of Abrolhos

MacDonald clashed with the DPIRD because he was travelling to the Houtman Abrolhos Islands and using a jetty on Uncle Margie Island (see Figure 2) without authorisation (O'Connor, 2021; Moroney, 2023). Uncle Margie Island is part of the reserve and not part of the Houtman Abrolhos Islands National Park (DPIRD, 2022, p. 13, Map 7); and it is therefore managed by the DPIRD. It appears that at one stage, MacDonald held an interest in the jetty. In 2012, he had helped his father purchase parts of the jetty, but at some point, the license was transferred to another party (Thannoo, 2023b). MacDonald disputed this, contending that the jetty was stolen from his family (Pin, 2023; Moroney, 2023). MacDonald claimed the DPIRD was "harassing" his family and "trying to criminally extort money" (Allen, 2022; Beatty, 2021a).

On 21 October 2020, MacDonald published a document online declaring sovereignty over the Houtman Abrolhos Islands and three nautical miles surrounding the archipelago, declaring himself "creditor, prince and minister" of the "Houtman Abrolhos Micro Nation" (see Figure 3) (Allen, 2022; Beatty, 2021a; Pin, 2021). Echoing the 1970 assertion of 'Prince'

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⁵ It is worth noting that the Houtman Abrolhos Islands are also claimed by the Republic of The Greater Western Isles (RGWI). However, whereas MacDonald has been a regular to the archipelago, the RGWI is a virtual micronation (see Hobbs, Hayward, & Motum, 2023).

Leonard Casley of Hutt River, MacDonald claimed he took this step "to protect his livelihood as a fisherman and charter operator" (Beatty, 2021b; Bicudo de Castro & Kober, 2018; Hobbs & Williams, 2022). The purported legal basis for his claim – adverse possession – was identified in a Royal Announcement and Decree titled 'Houtman Abrolhos Land Claim'. MacDonald's decree and accompanying 109-page manifesto reveals a broad sweep of pseudolegal thinking. MacDonald asserted, among other points, that the Commonwealth of Australia is a registered company in the United States and thus does not issue or enforce laws but rather merely "internal policies and procedures", that New Zealand is a state of the Commonwealth of Australia (and thus their Prime Minister may also be indicted for treason), and that the "Queen of Australia" is a corporate fiction and not a 'living breathing woman' (Moroney, 2023; Sudy, 2023; Allen, 2022; Beatty, 2021a).



Figure 2 – Aerial view of Uncle Margie Island, Pelsaert Group (DPIRD, 2022, p. 7).



Figure 3 – Flag of the Houtman Abrolhos Micro Nation (Sudy, 2023).

Despite being charged by the DPIRD, as the 'Prince of the Abrolhos', MacDonald kept running his business. This led to further charges by police, including trespass, damaging a CCTV camera on Uncle Margie Island, and breaching a misconduct restraining order (O'Connor, 2021; Beatty, 2021a; Beatty, 2021b; Thannoo, 2023a). Thannoo (2023a) provides examples of MacDonald's antics:

In one incident, Mr MacDonald allegedly refused to give his phone to a fisheries officer who believed the phone contained evidence, until he was forced to hand it over by a police officer. Body-camera footage from a fisheries officer who delivered an order prohibiting Mr MacDonald from taking his boat out of Geraldton showed Mr MacDonald say he didn't "consent" to the officer's order, throwing the paper into the ocean.⁷

MacDonald continued to rely on pseudolegal arguments to challenge the jurisdiction of the authorities and defend his claims on Uncle Margi Island (e.g., 'Penalties for trespass and damage start at \$50,000 per offence.') (see Figure 4). The preposterousness of these claims ostracised other people from the camp at Uncle Margi Island. So did MacDonald's behaviour. Beatty notes that he allegedly 'behaved in an intimidatory, offensive or abusive manner to the leaseholder of the camp, both in person and on social media' (Beatty, 2021b).



Figure 4 – Official message on a building on Uncle Margie Island (Sudy, 2023).

⁶ The list of charges provided by reporters from ABC News and outlets belonging to The West Australian are not comprehensive. As the Magistrates Courts in Western Australia do not publish the reasons for decisions and transcripts, we were not able to list all charges *ipsis litteris*.

⁷ NB The original paragraphing has been condensed here.

MacDonald continued to ignore the authority of the DPIRD and failed to appear to face charges at the Geraldton Magistrates Court in 2021 (Beatty, 2021a). The authorities were unfazed by MacDonald's antics and arrested him (O'Connor, 2021).

During the court hearings, MacDonald continued to raise an extensive range of pseudolegal arguments. MacDonald contended that his correct name was not read out and told the magistrate he did not understand or consent to the charges against him and did not recognise his authority (O'Connor, 2021; Beatty, 2021b). MacDonald stated:

This is fraud and corruption at its finest. I don't agree with anything you say or have a contract with you. (Beatty, 2021b).

The Magistrates Court acted calmly and professionally in the face of MacDonald's provocative language and approach. The magistrate ordered a fitness to plead report and a court-appointed psychiatric nurse was asked to assess whether MacDonald had the capacity to comply with any bail conditions (Beatty, 2021b; Beatty, 2021c). The court granted MacDonald bail on the condition that he not move his charter boat from its pen and not enter Uncle Margie Island (Beatty, 2021b). MacDonald appears to have reluctantly stuck to these conditions. In two posts on his business' Facebook page, he explained his thinking:

At this stage, we are no longer taking on any further bookings and will keep you all up to date as things carry out.

We are now flat-out challenging the corrupt WA Fisheries in Court for the better interest of the Abrolhos pristine waters and the better interest of the WA people. Previously, the Minister of Fisheries made a public announcement that Abrolhos fishermen could use their camps to start shore base accommodation. Since then, WA Fisheries (on a power trip) said they don't care what any Minister says and that it will never happen, we are after maximum return from the Abrolhos, we will get nothing from the WA people going to the Abrolhos nor do we get anything from having fisherman out there.

Now our family has been at the Abrolhos for 70+ years and the WA (state) fisheries have always relied on a fraudulent lease/threats over land outside state waters and those facts have already been before the court. Now the WA (state) Fisheries are acting illegally and trying to use Geraldton Court to act under Maritime/Contract Law instead of common crown law with Abrolhos being crown land. (...) The trick (actually fraud) is that Fisheries/Court use Legalese.⁸

Then the following post:

Now a few of the charges before the court is trespassing (on my own stollen [sic] jetty) and those who make a claim must also provide the foundation and the physical proof of that claim (lawful holder of the Jetty/Abrolhos) but again its just more fraudulent claims before Geraldton Court who are bias, ignore evidence and ignore no consent.

⁸ NB The original paragraphing has been condensed here.

Re: Abrolhos accommodation, the WA Fisheries Minister is allowing fisherman to use their camps to start shore bassed [sic] accommodation but the corrupt WA FISHERIES (who are now UN Agents under Jurisdiction outside of State WA waters⁹) said they don't care what WA Fisheries Minister says, we'll do what we want.

The trial at the Geraldton Magistrates Court took place in 2023 (Allen, 2022; Pin, 2022). MacDonald represented himself in the four-day trial. He pleaded not guilty to 17 charges, again claimed sovereignty over the Houtman Abrolhos Islands, and questioned the court's authority to hear the matter (Pin, 2023; Moroney, 2023). As Angeloni (2023) reported, MacDonald's continued to rely on pseudolaw:

During the trial, MacDonald presented the magistrate with a lever arch file containing hundreds of pages questioning the jurisdiction of the court to hear the charges. The file contained historical legislation, a petition to Queen Elizabeth II to "return the security to the people", and claimed the Commonwealth of Australia was a private company. (Angeloni, 2023)

MacDonald was acquitted of nine of the 17 charges. He was not convicted of any charges relating to the use of the jetty because the magistrate accepted that MacDonald honestly believed that part of the jetty belonged to him (Angeloni, 2023; Moroney, 2023). He was found guilty of eight charges:

including three counts of travelling to the Abrolhos Island Fish Habitat Protection area without notice, four counts of failing to comply with a direction and conducting a commercial fishing tour without an operator's licence. (Moroney, 2023)

The DPIRD sought a significant costs order of \$26,902. However, noting that she had never seen the state seek a costs order against a self-represented litigant who had been acquitted of several charges, the magistrate ordered MacDonald pay \$4,000 in costs, alongside a \$4,600 fine (Moroney, 2023; Angeloni, 2023). Nevertheless, the case had a serious financial impact on MacDonald. Given his bail conditions prevented him from using his boat, MacDonald lost income (Pin, 2021), and ultimately led him to reportedly try to sell his boat (Allen, 2022; Pin, 2023).

Discussion and conclusion

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Western Australia has long served as a hotbed of secessionism – performative and otherwise. In 1933, the state voted to secede from the Commonwealth of Australia before cooler heads prevailed. Nevertheless, the idea of establishing a new nation runs deep. In 2016, for example, there was a well-received spoof article in an independent news/magazine website based in Perth about Rottnest Island's interest in separating from the state of Western Australia (Hayward, 2018). More infamously, the state has been home to several prominent micronations, including the Principality of Hutt River which operated between 1970 and 2020

⁹ Note that this is an unsubstantiated claim rather than statement of fact.

¹⁰ The authors contacted the DPIRD for commenting on the case. The DPIRD disclosed on 5 February 2024, that an appeal regarding the matters was still before the courts and therefore the DPIRD was not in a position to comment on the case until it is resolved.

(Bicudo de Castro & Kober, 2018), and the Christian nation of New Westralia, active since 2020, which has been identified by the media as 'a group of radical secessionists' (Hickey & Walsh, 2020).

These various attempts differ in their legality. The 1933 referendum in which WA residents voted to secede from the Australian Commonwealth was held in accordance with law (Musgrave, 2003). The same cannot be said about the creation of the Principality of Hutt River, which emerged in a dispute over the regulation of wheat. The founder of the principality – Leonard Casley – was identified by the media as a *bush lawyer*, an Australian term for a non-metropolitan person who claims (without any basis) to have substantial legal knowledge. Such attribution can be confirmed by his frequent and creative adoption of pseudolegal arguments (see Hobbs & Williams, 2021). Nonetheless, the principality's antics during its existence did not include claims on territories beyond private property.

A recent micronational claim draws directly on pseudolaw in its justification for secession. Supporters of the Christian nation of New Westralia invaded a historic courthouse in an old Western Australian Wheatbelt town in 2020 to proclaim their sovereign nation (Hedley, 2020). On the Friends of New Westralia (n.d.) page, supporters explain why they took such drastic action:

New Westralia attests to be the legitimate sovereign authority acting in the interests of the people native of the Dependencies of Western Australia, their heirs and successors, And, Defender of the Imperial Realm proper in the name of Her Majesty Queen Elizabeth the Second, the Protestant Supreme Governor of the Church of England in her absentia by capture, retardation, disinterest, or uncaring of Her loyal subjects current plight, as it may be."

The invaders were ordered to pay a fine and compensation after damaging the heritage building (O'Connor, 2022).

The 'prince of the Abrolhos' case is another example of the allure of micronationalism and pseudolaw in Western Australia. Indeed, it appears that members of these groups and movements are looking for opportunities to support each other. The Christian nation of New Westralia convened its own common law court to assist MacDonald (who they described as a citizen of New Westralia) and requested his immediate release when MacDonald was arrested in 2021 (Sudy, 2023). This may explain the cryptic statement by MacDonald when advised to seek legal advice, that he had "already got people in Perth looking" at his case (Pin, 2021). In this, New Westralia is drawing on a long tradition of pseudolegal movements, particularly in the United States, that have sought to establish their own legal systems and courts dedicated to enforcing a "true" common law.

Micronation assertions of sovereignty frequently ignore the claims of Indigenous peoples (Bicudo de Castro and Muskat, 2020). Although the Houtman Albrolhos are not subject to any native title claim or determination, MacDonald's pretensions to sovereignty over the archipelago certainly fit this pattern. Indeed. as noted above, evidence of prehistoric Aboriginal occupation has been found on at least one of the islands. That connection endures. In 2022, whilst MacDonald was waiting for his trial, the Bundi Yamatji Aboriginal Corporation – representing the Yamatji Nation – were successful in obtaining a Sea Country

¹¹ Considering the passing of HM Queen Elizabeth II in 2022, the page might be outdated.

Indigenous Protected Areas (IPA) consultation project in an area which includes the Houtman Abrolhos Islands (DCCEEW, n.d.). The project includes establishing a turtle monitoring and protection program, a biosecurity monitoring program, and research into climate change impacts on the area.

It may be tempting to poke fun at an obviously misguided claim, but the story of the 'Prince of the Abrolhos' reveals what is increasingly accepted within scholarship on pseudolaw. It should not be surprising that some individuals who suddenly find their liberty and personal choice constrained by public power react in confronting ways, including by resorting to pseudolaw. MacDonald was fortunate. The magistrate in his case was able to put to one side his erroneous assertions of jurisdiction and specious claims of fraud and focus on the merits. Despite his use of pseudolaw and his initially combative behaviour, the magistrate accepted that MacDonald honestly believed that part of the jetty on Uncle Margie Island belonged to him, acquitting MacDonald on nine charges. It appears that this incident may have sparked a moment of clarity for MacDonald. Angeloni (2023) reports:

Speaking ahead of his sentence, MacDonald said his mental health had been an issue at the time and he had felt threatened by fisheries officers.

"I know what I did was wrong obviously,' he said.

"I don't understand the law obviously."

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