

When the Waters will be One: Hereditary Performance Traditions and the Yolŋu Re-invention of Post-*Barunga* Intercultural Discourses¹

Aaron Corn

On 12 June 1988, amid a year of state-sponsored celebrations to mark the bicentenary of the establishment of the British Colony of New South Wales, Prime Minister Bob Hawke attended a festival of sport and culture hosted by the small Indigenous community of Barunga. There, he was presented with a joint statement by Wenten Rubuntja, as chair of the Central Land Council, and Galarrwuy Yunupingu, as chair of the Northern Land Council. Known as *The Barunga Statement*, this document called on the Australian Government to negotiate with ‘the indigenous owners and occupiers of Australia’ to make a treaty recognising their prior ownership, continued occupation and sovereignty, and affirming their human rights and freedom.²

Hawke’s initial response to *The Barunga Statement* was a promise to facilitate the completion of these negotiations within the life of his Parliament.³ However, once it became apparent that this undertaking had failed to garner broader parliamentary support, Yolŋu sought recourse not through another statement but, rather, through the release of a popular song. This song would capture the imaginations of an entire generation of Australians and bring international acclaim to a little-known band named Yothu Yindi from the remote former mission town of Yirrkala in northeast Arnhem Land. This song, ‘Treaty’, was the first by any Indigenous band — and, certainly, any band from Arnhem Land — to top the Australian charts, and remains a well-known reminder of this as-yet unresolved episode in Australian politics.⁴

Galarrwuy Yunupingu’s central role with Wenten Rubuntja in the preparation and presentation of *The Barunga Statement* to Hawke, and Yothu Yindi’s subsequent role in promoting wider awareness about its political agenda through ‘Treaty’, were not isolated incidents. As an elder brother to Mandawuy Yunupingu and an uncle to the other founding members of Yothu Yindi, Witjiana Marika and Milkayju Mununggurr, Galarrwuy was closely involved in the artistic and musical development of this band since its inception in 1986.⁵ Moreover, *The Barunga Statement* and ‘Treaty’ were also deliberate steps in a continuum of intercultural political discourse with Australia’s Anglophonic institutions on the part of Yolŋu intermediaries from northeast Arnhem Land that began with the establishment of Methodist missions there from 1923, and in which the agency and leadership of Yolŋu practitioners of music continues to this day.

This article will demonstrate how contemporary Yolŋu practitioners of music, such as the founding members of Yothu Yindi, have fostered new intercultural discourses about their living religious, intellectual and legal traditions, and their

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continuing sovereignty in northeast Arnhem Land through their engagements with new media, audiences and performance contexts. It examines the conceptual and theoretical bases for these engagements in hereditary Yolŋu intellectual traditions, and addresses their more recent development through innovative public initiatives such as the Garma Festival of Traditional Culture,⁶ the *yidaki* (didjeridu)* manufacturing and teaching practice of Rripaŋu Yidaki,⁷ and the Mäwul Rom Project.⁸

I have observed and have been involved in these initiatives since August 1999, when, at the invitation of the Yothu Yindi Foundation, I attended the inaugural Garma Festival of Traditional Culture at Guḷkuḷa in northeast Arnhem Land. Djalū Gurruwiwi of Rripaŋu Yidaki has taught *yidaki* to an international cohort of students each year at this event, and I have published my observations of his remarks at two open fora on this instrument during the festivals of 1999 and 2003.⁹

I have attended each Garma Festival of Traditional Culture except for the second in 2000 and, in 2002, was appointed Secretary to the Symposium on Indigenous Performance under the convenorship of Marcia Langton, Allan Marett and Mandawuy Yunupiŋu, which has become an annual event at the festival in association with its key forum.¹⁰ I was fortunate to be able to work more closely with Djalū Gurruwiwi through our common involvement in the Australian Research Council Discovery Project, Acoustics of the Didjeridu, in 2003. In June 2004, through my close association with the Galiwin'ku Indigenous Knowledge Centre, I worked as a volunteer on the Mäwul Rom Project's inaugural Cross-Cultural Mediation Training Workshop at Dhudupu on Elcho Island, which was convened by the prolific Djiniyini Gondarra in collaboration with Wiṯiyana Marika.¹¹

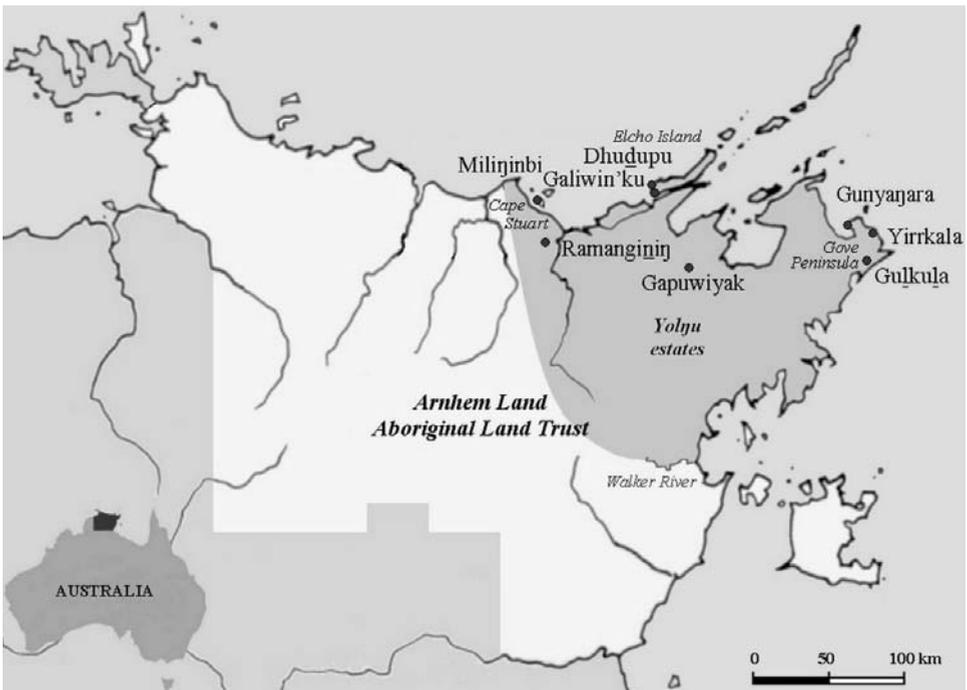
Who are the Yolŋu?

This land was never given up. This land was never bought and sold.¹²

The Yolŋu (literally, 'person', 'human') are the Indigenous inhabitants and hereditary owners of northeast Arnhem Land in Australia's Northern Territory. There are approximately 7,000 Yolŋu Australians, whose homelands, as shown in the following map, extend from the Gove Peninsula in the northeast, west to Cape Stuart and southwest to the Walker River. The six major towns that Yolŋu populate within this area are Miliŋinbi, Yirrkala, Galiwin'ku, Ramangiŋiŋ, which were each established as Methodist missions in 1923, 1934, 1942 and 1973 respectively, and Gapuwiyak and Gunyaŋara, which began as satellite outstations of Galiwin'ku and Yirrkala respectively in the 1980s.

Yolŋu society is an expansive network of more than sixty patrilineal groups that are generically known as *mala* (literally, 'group'), and whose agnatic members each share hereditary ownership in discrete physical estates — known generically as *wäŋa* (literally, 'place', 'home(land)', 'country') — which comprise tracts of land, bodies of water and their incumbent natural resources. The Yolŋu

* See glossary on page 33.



Locations cited within the expanse of Yolŋu estates and greater Arnhem Land.
Aaron Corn, 2004.

intermediaries discussed in this article — Galarrwuy and Mandawuy Yunupinŋ, Witŋyana Marika, Milkayŋu Munungurr, Djalŋ Gurrŋwiwi and Djiniŋini Gondarra — are members of the Gumatj, Rirratjŋu, Djapu', Gälpu and Golamala *mala* respectively.

Seven mutually unintelligible Australian languages, known collectively as Yolŋu-Matha (literally, 'people's tongues'), are spoken among the members of these *mala*. However, each *mala* speaks its own patrillect, or *matha* (literally, 'tongue'), with its own discrete lexicon of hereditary and sacred *yäku* (names), and this is a most important component of patrilineal identification among the Yolŋu, and holds binding legal ramifications for individual claims of ownership in *wäŋa* and other hereditary properties.¹³

The Yolŋu have inhabited northeast Arnhem Land for countless millennia. They possess names for and maintain intimate knowledge of places far out at sea that are known to have been above sea level some 10,000 years ago.¹⁴ For centuries prior to its termination by the State Government of South Australia in 1906, the Yolŋu maintained extensive trading relationships with Asian seafarers known to them as the Maŋatjaj (Macassans), whose annual voyages to Australia's north coast from the port of Macassar (now Ujung Pandang) on Sulawesi are recorded in hereditary canons of Yolŋu song, dance and design that survive to this day.¹⁵ Moreover, there is now new evidence to suggest that the Bayini, of whom

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contemporary Yolŋu also sing, were Chinese seafarers who landed in Arnhem Land while circumnavigating the globe from 1421–23.¹⁶

Michael Cooke records that, before the establishment of the first permanent missionary presence in northeast Arnhem Land at Milinjibi in 1923, the Yolŋu had already held an extensive knowledge of their Asian neighbours to the north for some 500 years and were aware of Dutch colonisation in Indonesia.¹⁷ This information was absorbed into Yolŋu canons of hereditary knowledge without displacing the intrinsic and durable logic of Yolŋu intellectual discourses,¹⁸ and served as a model for how Yolŋu communities would later endeavour to manage their more sustained relationships with Eurocentric missionaries and government bodies from 1923.¹⁹

Performance, law and leadership

The planting of the Union Jack never changed our law at all.²⁰

As their struggle against the Commonwealth of Australia for international recognition of their continuing sovereignty in northeast Arnhem Land gained momentum in the 1960s, the Yolŋu remained diligently observant of their continuing rights and responsibilities as direct descendants of the *waŋarr* (ancestral progenitors) who originally shaped, named and populated their hereditary estates, and remain sentient and ever-present in its lands and waters.²¹ By virtue of this birthright, all Yolŋu are owners or *wäŋa-waŋaŋu* (literally, ‘country-holders’) in the *wäŋa* of their *mala*, and *rom-waŋaŋu* (literally, ‘law-holders’) in their hereditary canons of *yäku* (names), *manikay* (songs), *buŋgul* (dances) and *miny'tji* (designs). These hereditary canons of *yäku*, *manikay*, *buŋgul* and *miny'tji* are collectively known as *maḍayin* (sacra), which is a word that also describes awe-inspiring beauty and, in their *garma* (publicly knowable) forms, codify deeper *dhuni*’ (peri-restricted) and *ŋärra*’ (restricted) bodies of esoteric and legal knowledge.²²

Yolŋu society is effectively bi-constitutional. All individuals, the *mala* into which they are born, the hereditary properties that they own, the *waŋarr* from whom they trace their lineage, and the legal and religious charters inherited from them are either Dhuwa or Yirritja; this is a fundamental tenet of Yolŋu society. For instance, Gumatj is a Yirritja *mala*, while Rirratjingu, Djapu’, Gälpu and Golamala are Dhuwa. Dhuwa and Yirritja are conventionally classified as patri-moieties or, in other words, as patrilineal halves of a greater social and cosmological whole.²³ In accordance with Yolŋu legal tradition, individuals take spouses of the opposite moiety, thereby ensuring that all offspring are born into the *mala* and moiety of their *bäpa* (father) from whom they inherit full ownership rights in their own *wäŋa* and *maḍayin*. Individuals also have a *ŋändi* (mother) whose *mala* and moiety are different from theirs and from whom they inherit complementary rights in the *wäŋa* and *maḍayin* in which she holds full ownership.²⁴

Although Yolŋu of the Dhuwa and Yirritja moieties see their systemically different canons of *yäku*, *manikay*, *buŋgul* and *miny'tji* as codifications of two separate legal constitutions that are each whole and complete in their own right, cooperation and interdependence between holders of Dhuwa law and holders of Yirritja law is how bi-constitutionalism works as a fundamental legal principle in

Yolŋu society. Each moiety has its own legal constitution that it must faithfully uphold, but is also charged with the responsibility of ensuring that their counterparts of the opposite moiety follow *rom* (law, correct practice, the way) in their execution of their *maḍayin* and in their responsibilities to *wäŋa*, *gurrutu* (kin) and *waŋarr*. As discussed later, models also exist in Yolŋu law for cooperation between *mala* of the same moiety who share ownership in *wäŋa* and *maḍayin* as *reygitj-waŋaŋu* (same-moiety alliance holders, co-owners), and for the deployment of their discrete *maḍayin* in joint ceremonial performances.²⁵

Even though knowledge at its deepest and most restricted level is held only by those who have been formally admitted to leadership within Yolŋu society, it is nonetheless each individual's responsibility to follow and be accomplished in the precedents for *rom* established by *waŋarr*. This entails the arduous process of attaining a full and consummate knowledge and ability in the execution of one's hereditary *maḍayin*, which is a formal prerequisite to the admittance of individuals to leadership roles in Yolŋu society. Once formally admitted to roles of social and ceremonial leadership by their elders, men and women alike become known as the *liya-ŋärra'mirr(i)* (learned, wise; literally, 'restricted-knowledge possessing').²⁶ In *garma* (public) ceremonial contexts, *liya-ŋärra'mirr(i)* men perform focal sung invocations of sacred *yäku* with accompanying male choruses,²⁷ while *liya-ŋärra'mirr(i)* women lead their female counterparts in the heterophonic singing of *ŋäthi* (crying) songs.²⁸

Moreover, the leadership of *liya-ŋärra'mirr(i)* Yolŋu in mounting sophisticated ceremonial performances of *manikay-buŋgul* (song-dance) series — especially where the participation of multiple *mala* must be negotiated prior to commencement — provides the very mechanism through which binding legal arrangements between different Yolŋu *mala* are transacted. As religious and political leaders, *liya-ŋärra'mirr(i)* singers and dancers have always exerted a certain degree of choice and control over the duration and content of each new performance of their hereditary *manikay-buŋgul* series. For instance, the complete *luku manikay* (root song) series that are sung and accompanied on *yidaki* by the men of each *mala* can be truncated for performance in their *buŋgulmirr(i)* (dance-accompanied) forms in various ways. Women's performances of *ŋäthi* songs draw on the *dämbu* (literally, 'heads'; formulaic pitch sets and melodic contours) and *makarr* (literally, 'thighs'; lyrics) of the *manikay* series sung by their male counterparts, and these songs contain semi-extemporised expressions of grief,²⁹ while traditional mechanisms also exist for the composition and addition of *yuta* (new) items on existing *maḍayin* subjects to informal performances of *manikay-buŋgul* series.³⁰

That *maḍayin* subjects have always been durable within hereditary canons of *rom* and synchronously expressed across different media as *yäku*, *manikay*, *buŋgul* and *miny'tji* has also pre-empted their more accelerated applications to new media and performance contexts by *liya-ŋärra'mirr(i)* Yolŋu in response to emergent technologies and socio-political circumstances over the past five decades. These have included:

- the development of a regional popular band movement through which local musicians such as those in Yothu Yindi draw heavily on themes and materials

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- from their hereditary *manikay–buṅgul* series in the composition of new repertoire;³¹
- films such as *Yolḷu Boy*³² and staged shows such as *Trepang*³³ that incorporate extended passages of traditional performance and materials drawn directly from *manikay–buṅgul* series as directed in collaboration with *ḷiya-ḷärra 'mirr(i)* Yolḷu such as Galarrwuy and Mandawuy Yunupijū;
 - festivals such as the Garma Festival of Traditional Culture at which visitors witness daily ceremonial performances led by *ḷiya-ḷärra 'mirr(i)* Yolḷu such as Galarrwuy Yunupijū and Wiṭiyana Marika;
 - internationally renowned *yidaki* manufacturing and teaching practices such as those led by Djalū Gurruwiwi of Rripanḷu Yidaki and Milkayḷu Munuṅgurr;
 - cultural and intellectual exchange programs such as the Mäwul Rom Project led by Djiniyini Gondarra that foster the active participation of all delegates in ceremonial performances;
 - diplomatic envoys to parliamentary bodies such as the Wukudi ceremony featured in *Dhäkiyarr versus the King*,³⁴ and
 - gospel repertoires in which ancestral *madayin* and Christian themes are syncretised.³⁵

Singing across the rift

Now two rivers run their course, separated for so long.³⁶

For Galarrwuy Yunupijū and his close relatives in Yothu Yindi, the presentation of *The Barunga Statement* to Hawke in 1988 was preceded by the failure of their fathers, after a decade of campaigning between 1962 and 1972, to halt the mining of bauxite from their hereditary lands on the Gove Peninsula by the Swiss-Australian company NABALCO. When the *ḷiya-ḷärra 'mirr(i)* leaders of the Gove Peninsula first heard about the threat of mining to their hereditary estates through the mission authority at Yirrkala, their initial response in 1963 was to communicate their protestations to the Australian Government via the ‘Yirrkala Petition to the House of Representatives’.³⁷

Their ensuing legal case against NABALCO and the Commonwealth of Australia in the Supreme Court of the Northern Territory in 1970–71³⁸ probed the complexities of Yolḷu law and its traditional provisions for managing property rights.³⁹ Galarrwuy Yunupijū, who had joined the newly established Yirrkala Town Council in 1969, acted as an interpreter for his elder kin throughout these proceedings. He witnessed their eventual defeat in 1971 when Justice Blackburn ruled that Yolḷu proprietary interests in land could not be recognised under Australian law. Blackburn stated his uncertainty of the plaintiffs’ descent from the people who had owned the contested lands when Captain Arthur Phillip took possession of the entire Australian continent in the name of the British Crown on 26 January 1788.⁴⁰

This devastating personal and political loss and its later conflagration by the as-yet unmet call for a treaty between Indigenous Australians and the Australian Government has figured prominently in the repertoire of Yothu Yindi since the band’s inception at Yirrkala in 1986. ‘Luku-Wäṅawuy Manikay (1788)’ by Galarrwuy Yunupijū from the band’s debut album, *Homeland Movement*,⁴¹ stands

as a scathing satire of the absurdity of Blackburn's ruling to Yolŋu sensibilities. It suggests that Captain Phillip and his First Fleet would have been hastily repelled had they not landed some 2,500 kilometres away from the Yolŋu homelands of northeast Arnhem Land, and had Yolŋu leaders at Yirrkala not waited more than 130 years to be informed of their arrival by latter-day missionaries and government representatives. Yothu Yindi's repertoire also makes direct reference to the sad legacy of the 'Yirrkala Petition' and bauxite mining on the Gove Peninsula in 'Gunitjpirr Man',⁴² 'Written on a Bark',⁴³ 'Lonely Tree',⁴⁴ and 'Gone Is the Land'.⁴⁵

As the 1990s progressed and *The Barunga Statement's* call for a treaty seemed less and less likely to be answered, Yolŋu leaders started to devise and trial ways of entering into new intercultural discourses with others. While commonly based on traditional models for social equity and cooperation between *mala* found in *rom*, most new intercultural discourses have been mounted as initiatives that have been engineered to simultaneously enhance socio-economic development in Yolŋu communities. For example, Yothu Yindi is named for the fundamental child–mother relationship in Yolŋu society through which balance, interdependence, mutual respect and order between *mala* of different moieties is maintained. As further explained by Gondarra, it is the *yothu–yindi* (child–mother) relationship, and the systemic interdependence between Dhuwa and Yirritja that it maintains, that enshrines the separation of legal powers in Yolŋu society.⁴⁶

The Yothu Yindi Foundation's broader socio-political project in staging the Garma Festival of Traditional Culture at Guḷkuḷa is similarly informed by a model found in *rom* for fruitful cooperation between *mala* of the same moiety as *rengitj-wataŋu* (same-moiety alliance holders, co-owners). Guḷkuḷa is a place where *mala* of the Yirritja moiety and their Dhuwa kin have always congregated to perform joint ceremonial programmes such as Djaḷumbu (hollow log re-interment) under the law of the *wajarr mokuy* (progenitorial ghost) Ganbulapula, who bestows *rom* for hunting *guku* (honey), *yukuwa* (yams) and *garrtjambal* (kangaroo), for exogamous marriage, for making and playing *yidaki*, and for human burial.

The inaugural Garma Festival of Traditional Culture in 1999 was realised as a festival built around the painting and erection of a *larrarkitj* (hollow log coffin) at the culmination of a Djaḷumbu ceremony by the Gumatj, Dhaḷwaŋu, Wangurri, Ritharrŋu and Balngarra *mala*. As explained by Howard Morphy, Yolŋu consider the knowledge imparted in *rengitj* (same-moiety cooperative) ceremonial contexts such as this by *liya-ŋarra'mirr(i)* leaders as a product of their consensus to be the most definitive.⁴⁷ Helen Verran characterises Guḷkuḷa's role as a site of learning and exchange for all through the extension of this intellectual process by describing it as 'a nexus, a bee hive, where distilled and rich meanings are generated' and from which 'cultural meanings flow'.⁴⁸ Notes from Yothu Yindi's fourth album, *Birrkuda: Wild Honey*, further explains:

the bees [*birrkuda*], their honey [*guku*] and their hive teach us how to live. For us, a bees' hive is a symbol of excellence that can be achieved both in individual and community life.⁴⁹

The ideological and pedagogical roots of the Garma Festival of Traditional Culture as a site of learning and exchange for all predate the formation of Yothu

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Yindi at Yirrkala in 1986. Mandawuy Yunupijū first posited these ideas in his third popular song, ‘Mainstream’,⁵⁰ which was composed while he was completing a Bachelor of Arts in Education through Deakin University. While he was working as an assistant principal at Shepherdson College in Galiwin’ku, Mandawuy was continually confronted by the assumptions of his Euro-Australian colleagues that mainstream classroom schooling in English alone could cater for the educational needs of Yolŋu children. Thus, when confronted with these same assumptions in his own tertiary studies, he rebuked them by composing ‘Mainstream’, which was submitted for assessment and subsequently awarded a high distinction.⁵¹

Essentially, ‘Mainstream’ contends that the hereditary knowledge codified in *madayin* by *wajarr* and the imperative to follow their precedents for living through *rom* is the mainstream intellectual discourse through which Yolŋu children have been raised and educated for countless generations. It challenges still-prevalent notions in Australia that only Europeanist academic traditions are factually and pedagogically valid, and presented Mandawuy Yunupijū’s vision for redressing this imbalance through the introduction of bi-cultural schooling initiatives to Yolŋu communities.⁵²

The first verse of ‘Mainstream’ refers to *djinkungun* (yellow foam) which is produced at a *ganma* (brackish water) site that marks the boundary between two *wäŋa* of the Yirritja moiety: Biranybirany, which is owned by Mandawuy Yunupijū’s own *mala*, the Gumatj, and Dhäliny, which is owned by one of its *yapapulu* (sister-groups), the Wangurri. The same-moiety meeting of fresh and salt waters at this site and the *djinkungun* that they produce represents the fruitful interaction of two similar and equal socio-political entities that do not assimilate each other and produce something entirely new through their co-operation.⁵³ This verse also makes reference to Mandawuy’s five daughters and the ancestral knowledge that has been passed to them through their Gumatj *yarrata* (patri-lineage).

The second verse of ‘Mainstream’ draws on *madayin* subjects incumbent with Yalaŋbara. This is an opposite-moiety Dhuwa *wäŋa* owned by the Rirratjijū *mala*, which is the *ŋändipulu* (mother-group) of the five Gumatj daughters to whom Mandawuy Yunupijū refers in the first verse. This *yothu–yindi* between Mandawuy’s daughters and their *ŋändi* (mother) represents the interdependence of different yet equal socio-political entities across moieties whose cooperation is essential to the continuation of Yolŋu existence. In the third and final verse of this song, the two models for equitable cooperation between separate socio-political entities — a same-moiety one in the first verse and a cross-moiety one between the first and second — are transposed onto the broader arena of cross-cultural relations within Australia to propose a better model for equitable and balanced relationships between Indigenous and other Australians.⁵⁴

Mandawuy Yunupijū’s vision of bi-cultural learning for Yolŋu children quickly became the mainstay of school curricula in northeast Arnhem Land.⁵⁵ However, his and other calls by Yolŋu commentators for more equitable relations between Indigenous and other Australians have, for the most part, yet to be realised. Mandawuy’s theorisation of *ganma* (brackish water) as a collaborative conceptual space nonetheless legitimates, from a Yolŋu perspective, the existence

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of new intercultural dialogues such as those facilitated at the Garma Festival of Traditional Culture.⁵⁶ Even so, it is important to recognise that Indigenous Australians such as the Yolŋu have far less choice in their bi-culturalism than their non-Indigenous counterparts. For Yolŋu, bi-culturalism provides necessary skills for accessing public services, for engaging in commercial transactions and for taking advantage of contemporary technologies.

Where the waters meet

I'm dreaming of a brighter day when the waters will be one.⁵⁷

Of the various new applications of performance traditions to new media and contexts listed earlier, there are two recent initiatives through which *liya-ŋärra'mirr(i)* Yolŋu leaders have created opportunities for newcomers to engage directly with Yolŋu intellectual traditions through performance practice. The first of these is the *yidaki* manufacturing and teaching practice led by Djalul Gurruwiwi of the Gälpu *mala* through his family business, Rripanu Yidaki (literally, 'Thunder Didjeridu'), which was established following the inaugural Garma Festival of Traditional Culture in 1999 to meet international demand from enthusiasts of this instrument for advanced teaching from this internationally renowned *yidaki* maker and player.

Today, Djalul Gurruwiwi's international reputation as a master *yidaki* player, maker and teacher is now unparalleled and, through its rapid expansion since 1999, his family business now boasts a web site and a healthy ledger of international orders and commissions for new instruments. Djalul Gurruwiwi has also undertaken international masterclass tours to Europe, Asia and North America, holds annual *yidaki* workshops for advanced international students at the Garma Festival of Traditional Culture, has released two commercial recordings of Gälpu *manikay* series⁵⁸ and two instructional albums on how to play *yidaki* accompaniments to Gälpu *manikay* series.⁵⁹ Among Gurruwiwi's legion of international pupils, some are so loyal to his teachings that they use these recordings to practise nothing but playing *yidaki* accompaniments to Gälpu *manikay* series as faithfully as possible. Gurruwiwi's generosity, warm rapport with his students and ideology of mutuality behind his practice are also well known, and were beautifully expressed in an address to the Symposium on Indigenous Performance at the Garma Festival of Traditional Culture in 2003:

I don't know much about different clans, different sacred places, different languages, but I respect all clans ... I open my knowledge and mind to you from different places and different countries. This is my way ... We are Yolŋu. We are one in the same blood. We are people. I'll tell you about our people and our things. If you want my *yidaki*, I'll give you *yidaki* whose soul is connected to me. Though there are many problems, you guys are great. You guys treat this place well. When you come here, you respect us. This is the way of thinking my father gave me. My father always brought *yidaki* when he went hunting ... and taught me. Open your mind. It is important. He taught me that.⁶⁰

The second new initiative through which newcomers are enabled to engage with Yolŋu intellectual traditions through performance practice under the guidance of *liya-ŋärra'mirr(i)* leaders is the Mäwul Rom Project. Led by Djiniyini

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Gondarra, this project was inaugurated at Dhudupu on Elcho Island in June 2004. It brought together some forty young Australians for a Cross-Cultural Mediation Training Workshop at which they participated in a Dhuwa *wukundi* (purification) ceremony led in collaboration with Wiṭiyana Marika of Yothu Yindi and the Yothu Yindi Foundation.

Dhuwa participation in this ceremony included members of the Golamala, Rirratjiṅu, Djambarrpuyṅu, Marraṅu, Dhuruli, Marrakulu and Wāgilak *mala*, and, like the cooperation of Yirritja *mala* in mounting the Djalumbu ceremony at the inaugural Garma Festival of Traditional Culture in 1999, constituted an expression of their equality and mutual respect for one another as *reygitj-wataṅu*. This collaborative model was then projected onto their interactions with visiting delegates to the Māwul Rom Cross-Cultural Mediation Training Workshop. That *māwul* itself is a hereditary *yāku* for a Dhuwa species of honey also alludes to the consensus-generated theories and understandings of cross-cultural engagement that Yolṅu leaders had hoped to instil in their delegates through this process.

Delegates were taught to dance in the *wukundi* (purification) ceremony by Wiṭiyana Marika in the spirit of the fundamental Yolṅu pedagogy of knowing through doing by virtue of one's birthright, and of ceremonial participation as a consensual expression from all involved that no one is above the law. As Gondarra explained at the Ṇjārra' Legal Forum during the Garma Festival of Traditional Culture in 2001, contemporary Yolṅu have had little choice but to recognise Australian legal jurisdiction in addition to their own.⁶¹ The very least that newcomers seeking serious engagement with Yolṅu intellectual traditions can now do is respond in kind. Djiniyiṅi Gondarra explains:

the *māwul* ceremony is a practical way to find what we have in common — something that can bring us together not as black or as white but as people living on planet Earth.⁶²

The project's organisers envisage that this ceremony will 'evolve as a 21st-century rite-of-passage for people engaged in cross-cultural dispute resolution and peace-making'.⁶³

It may not be possible for some time to assess just how successful initiatives such as the Garma Festival of Traditional Culture, Rripaṅu Yiḍaki and the Māwul Rom Project will be in their endeavours to simultaneously foster broad intercultural discourses between the Yolṅu and other peoples, enhance socio-economic development in Yolṅu communities, and educate a wider public about the living traditions of the Yolṅu and their continuing sovereignty in northeast Arnhem Land. Nevertheless, their current progress is encouraging. Although many of the people who travel to northeast Arnhem Land to engage with Yolṅu families and culture through such initiatives may not appreciate the complexities of Yolṅu religious, intellectual and legal traditions addressed in this article or in the comprehensive body of ethnographic literature about them,⁶⁴ their exchanges are more often than not genuine and enriching for all.

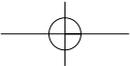
This article has shown how contemporary Yolṅu practitioners of music have sought to foster new intercultural discourses about their living traditions and their continuing sovereignty in northeast Arnhem Land through initiatives such as the Garma Festival of Traditional Culture, Rripaṅu Yiḍaki and the Māwul Rom Project in which they have deliberately applied their hereditary performance

traditions to new media, audiences and performance contexts. Moreover, it has demonstrated how different models for balance, equality, mutual respect and social order between different *mala* found in *rom* have been projected by *liya-ŋärra 'mirr(i)* Yolŋu leaders onto broader cross-cultural circumstances to proactively theorise and redress the unresolved issues over Indigenous sovereignty in Australia that *The Barunga Statement* raised in 1988.

In his address at the opening ceremony of the Mäwul Rom Cross-Cultural Mediation Training Workshop at Dhudupu in June 2004, Galarrwuy Yunupijū boldly stated, much to the sorrow of those in attendance, that there is no prospect of a treaty between Indigenous Australians and the Australian Government within his lifetime.⁶⁵ Nonetheless, it is through the perseverance and dedication of people like Galarrwuy Yunupijū who create new possibilities for intercultural understanding through initiatives such as the Garma Festival of Traditional Culture, Rripaŋu Yidaki and the Mäwul Rom Project that this statement may not remain true indefinitely.

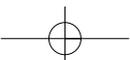
Glossary

<i>bäpa</i>	father, father's father's father's father, a male's son's son's son's son
<i>buŋgul</i>	(public ceremonial) dance (items and series), public ceremony
<i>buŋgulmirr(i)</i>	dance-accompanied
<i>dämbu</i>	head, (the formulaic pitch set and melodic contours of a <i>manikay</i> series)
<i>dhuni'</i>	peri-restricted (sacra, ceremonies and knowledge)
Djalumbu	a ceremony for hollow log re-interment of the Yirritja parti-moiety
<i>djinkungun</i>	the yellow foam found at <i>ganma</i> sites
Ganbulapula	a Gumatj <i>waŋarr</i> of the <i>mokuy</i> class
<i>ganma</i>	brackish water sites where freshwater and saltwater currents meet
<i>garma</i>	public (sacra, ceremonies and knowledge), publicly-knowable
<i>garrtjambal</i>	kangaroo
<i>guku</i>	honey
<i>gurrutu</i>	kin, kinship
<i>larrarkitj</i>	hollow log coffin
<i>likanbuy</i>	inner-most restricted (designs)
<i>liya-ŋärra 'mirr(i)</i>	learned, wise, with restricted knowledge
<i>luku manikay</i>	root song (series), (complete song series)
<i>madayin</i>	the awesome beauty of all creation, sacra, sacred, all things sacred
<i>makarr</i>	thighs, (the lyrics of a <i>manikay</i> series)
<i>mala</i>	hereditary patrilineal group of agnates, patri-group
<i>manikay</i>	(public ceremonial) song (items and series)
<i>matha</i>	tongue, (patrilect)
<i>mäwul</i>	a Golamala <i>yäku</i> for 'honey'
<i>miny'tji</i>	colour, (sacred designs)
<i>mokuy</i>	ghost, (a class of <i>waŋarr</i>)
<i>ŋändi</i>	mother
<i>ŋändipulu</i>	(sociocentric) mother group
<i>ŋärra'</i>	restricted (sacra, ceremonies and knowledge)
<i>ŋäthi</i>	(women's) crying (songs)
<i>raŋga</i>	restricted sacred objects
<i>reŋgitj</i>	same-moiety cooperative (sacra, ceremonies and knowledge)
<i>reŋgitj-waŋaŋu</i>	(sociocentric) same-moiety alliance holders (and co-owners)
<i>rom</i>	law, culture, correct practice, the way
<i>rom-waŋaŋu</i>	law holders (and owners)
<i>rripaŋu</i>	a Gälpū <i>yäku</i> for 'thunder'



Backburning

<i>wäŋa</i>	place, home(land), country, physical estates
<i>wäŋa-waŋaŋu</i>	country-holders
<i>waŋarr</i>	ancestral progenitors
Wukudi	a ceremony for dispute resolution of the Dhuwa patri-moiety
<i>wukundi</i>	(public ceremonial) purification
<i>yäku</i>	(sacred) names
<i>yapapulu</i>	(sociocentric) sister groups
<i>yarrata</i>	string, (patri-lineage)
<i>yidaki</i>	didjeridu
Yolŋu	person, human
Yolŋu-Matha	people's tongues, (the seven Yolŋu languages comprising some sixty <i>matha</i>)
<i>yothu-yindi</i>	the (egocentric and sociocentric) child-mother relation
<i>yukuwa</i>	yam
<i>yuta</i>	new



- 36 *ibid.*, p 269.
- 37 Walker, *op. cit.*, p 258.
- 38 *ibid.*
- 39 Langford Ginibi, *Don't Take Your Love To Town*, *op. cit.*, p 118.
- 40 *ibid.*
- 41 *ibid.*, p 135.
- 42 *ibid.*
- 43 According to Brad Wind on the 'Songfacts' website, 'Ruby Don't Take Your Love To Town', sung by Kenny Rogers (EMI, 1969), was written by Mel Tillis, who 'based his song on a couple who lived near his family in Florida. In real life, the man was wounded in Germany in World War II and sent to recuperate in England. There he married a nurse who took care of him at the hospital. The two of them moved to Florida shortly afterward, but he had periodic return trips to the hospital as problems with his wounds kept flaring up. His wife saw another man as the veteran lay in the hospital. Tillis changed the war to Vietnam in the song, and departed from the ending that happened in real life — he killed her in a murder-suicide.' Accessed 15 August 2004. <http://www.songfacts.com/detail.lasso?id=2113>. Johnny Cash recorded 'Don't Take Your Guns to Town' in 1958 (Sony Music, Columbia).
- 44 Lyrics to 'Ruby Don't Take Your Love To Town'. Accessed 15 August 2004. <http://users.cis.net/sammy/ruby.htm>.
- 45 Accessed 15 August 2004. <http://www.azlyrics.com/lyrics/johnnycash/donttakeyourgunstotown.html>.
- 46 Langford Ginibi, *Don't Take Your Love To Town*, *op. cit.*, p 239.
- 47 *ibid.*, p 242.
- 48 *ibid.*, pp 30, 242.
- 49 *ibid.*, p 242.
- 50 *ibid.*, pp 7, 9, 15. Richard Tauber was a popular European tenor in the 1920s and 1930s. Born in Austria, with a father classified as half-Jewish, he fled to England in 1938.
- 51 Mark Slobin's term 'superculture' refers to an 'overarching structure', encompassing the hegemonous, 'the statistically lopsided, the commercially successful, the statutory, the regulated, the most visible ...' A superculture includes an industry, the 'state and its institutionalized rules and venues' and 'more insidious strands of hegemony' that 'define the everyday, and circumscribe the expressive'. See Slobin, 'Micromusics of the West: A Comparative Approach', *Ethnomusicology*, vol 36, 1992, pp 15–18.
- 52 Langford Ginibi, *Don't Take Your Love To Town*, *op. cit.*, p 139. Langford Ginibi writes of Golden's war service in 'Little Big Man' in *Real Deadly*, *op. cit.*, p 39.
- 53 *ibid.*, p 146.
- 54 *ibid.*, p 139.
- 55 Ceridwen Spark, 'Rethinking Emplacement, Displacement and Indigeneity: *Radiance, Auntie Rita and Don't Take Your Love to Town*', *Journal of Australian Studies*, no 75, 2002, p 96.
- 56 Langton, *op. cit.*, p 33.

When the Waters will be One: Hereditary Performance Traditions and the Yolŋu Re-invention of Post-*Barunga* Intercultural Discourses

Aaron Corn

- 1 Spellings for Yolŋu-Matha words in this article follow the orthographic conventions used by Yolŋu communities and in the Yolŋu Studies program at Charles Darwin University. Further information about this programme can be found at : learnline.cdu.edu.au/yolngustudies/index.htm.
- 2 Galarrwuy Yunupinju et al., *The Barunga Statement*, Northern Land Council and Central Land Council, Barunga, 1988. To read the entire statement see Bain Attwood and Andrew Markus (eds), *The Struggle for Aboriginal Rights: A Documentary History*, Allen, Sydney, 1999, pp 316–17, and to view the form in which it was originally presented to Hawke — as a typescript surrounded by Yolŋu and Indigenous Central Australian designs — see Howard Morphy, *Aboriginal Art*, Phaidon, London, 1998, p 258.
- 3 Aboriginal and Torres Strait Islander Commission, 'Everybody's talking: Treaty', *ATSIC News*, February 2001, p 37.

Notes to pp 23–25

- 4 Yothu Yindi, 'Treaty', *Tribal Voice*, Mushroom, D30602, 1991, track 2. As a demonstration of solidarity between Indigenous and other Australians on this issue, Yothu Yindi composed 'Treaty' in collaboration with Paul Kelly and Peter Garrett. Most scholarly writings about this song and the musical movement in Arnhem Land from which it stems hold fast roots in seminal research conducted before 1996. These include, among others, Tony Mitchell, 'World music, indigenous music and music television in Australia', *Perfect Beat*, vol 1, no 1, 1992, pp 1–16; Karl Neuenfeldt, 'Yothu Yindi and ganma: The cultural transposition of aboriginal agenda through metaphor and music', *Journal of Australian Studies*, vol 38, 1993, pp 1–11; Lisa Nicol, 'Culture, custom and collaboration: The production of Yothu Yindi's "Treaty" videos', *Perfect Beat*, vol 1, no 2, 1993, pp 23–31; Phillip Hayward, 'Safe, exotic and somewhere else: Yothu Yindi, "Treaty" and the mediation of aboriginality', *Perfect Beat*, vol 1, no 2, 1993, pp 33–41; Peter Dunbar-Hall, 'Style and Meaning: Signification in Contemporary Aboriginal Popular Music, 1963–93', PhD thesis, University of New South Wales, 1994; Jill Stubington and Peter Dunbar-Hall, 'Yothu Yindi's "Treaty": Ganma in music', *Popular Music*, vol 13, no 3, 1994, pp 243–59; Tony Mitchell, *Popular Music and Local Identity: Rock, Pop and Rap in Europe and Oceania*, Leicester University Press, London, 1996; Peter Dunbar-Hall, 'Music and meaning: The aboriginal rock album', *Australian Aboriginal Studies*, vol 15, no 1, 1997, pp 38–47; Peter Dunbar-Hall, 'Continuation, dissemination and innovation: The didjeridu and contemporary aboriginal popular music groups' in Karl Neuenfeldt (ed.), *The Didjeridu: From Arnhem Land to Internet*, Libbey, Sydney, 1997, pp 69–88; and Peter Dunbar-Hall and Chris Gibson, *Deadly Sounds, Deadly Places: Contemporary Aboriginal Music in Australia*, University of New South Wales Press, Sydney, 2004, these studies make no reference to 'Treaty's genesis in *The Barunga Statement* and, where present at all, reflect only limited personal engagements with the Yolŋu communities and individuals involved in these initiatives, and limited intellectual engagements with the complexities of Yolŋu religious, intellectual and legal traditions addressed in this article and in the comprehensive body of ethnographic literature about them. For further discussion of 'Treaty' and theorisation of these matters, see Aaron Corn, 'Dreamtime Wisdom, Modern Time Vision: Tradition and Innovation in the Popular Band Movement of Arnhem Land, Australia', PhD thesis, University of Melbourne, 2002, pp 24, 50, 84–90, 94, 163–4 and 180.
- 5 Biographical information about Galarrwuy Yunupingu can be found on the Northern Land Council's web site at www.nlc.org.au/html/abt_inside_profile1.html. Biographical information about Mandawuy Yunupingu has been posted at www.celebrityspeakers.com.au/html/Mandawuy-Yunupingu.html, while the web site of Yothu Yindi can be found at www.yothuyindi.com.
- 6 Information provided by the Yothu Yindi Foundation about the Garma Festival of Traditional Culture can be found at www.garma.telstra.com.
- 7 The web site of Rripaŋu Yidaki can be found at www.djalu.com.
- 8 Information provided by the organisers of the Mäwul Rom Project can be found at www.wukindi.com.
- 9 Aaron Corn, 'The didjeridu as a site of economic contestation in Arnhem Land', *Newsletter: The Centre for Studies in Australian Music*, no 10, 1999, pp 1–4; Aaron Corn, 'Outside the hollow log: The didjeridu, globalisation and socio-economic contestation in Arnhem Land', *Rural Society*, vol 13, 2003, pp 244–57.
- 10 Information about the Symposium on Indigenous Performance can be found on the web site of the Garma Festival of Traditional Culture at www.garma.telstra.com/forum.htm.
- 11 Biographical information about Djiniyini Gondarra can be found on the Mäwul Rom Project web site at www.wukindi.com by following the left-hand link to the Project Directors page.
- 12 Yothu Yindi, loc. cit.
- 13 Nancy Williams, *The Yolŋu and Their Land: A System of Land Tenure and the Fight for Its Recognition*, Australian Institute of Aboriginal Studies, Canberra, 1986, p 42.
- 14 Yumbulul Yunupingu and Djiniyini Dhamarrandji, 'My island home: A marine protection strategy for Manbuyŋa ga Rulyapa (Arafura Sea)' in Galarrwuy Yunupingu (ed.), *Our Land is Our Life: Land Rights — Past, Present and Future*, University of Queensland Press, Brisbane, 1997, pp 181–7; Buku-Larrŋgay Mulka Centre, *Saltwater: Yirrkala Bark Paintings of Sea Country*, Isaacs, Sydney, 1999; David Horton (gen. ed.), *The Encyclopaedia of Aboriginal Australia*, Aboriginal Studies Press, Canberra, 1994, p 201.

- 15 C C Macknight, *The Voyage to Marege': Macassan Trepangers in Northern Australia*, Melbourne University Publishing, Melbourne, 1976.
- 16 Charles P Mountford, *Art, Myth and Symbolism, Records of the American-Australian Scientific Expedition to Arnhem Land*, vol 1, Melbourne University Publishing, Melbourne, 1956, p 333; Gavin Menzies, *1421: The Year China Discovered the World*, Bantam Books, London, 2002, pp 197–214.
- 17 Michael Cooke (ed.), *Aboriginal Languages in Contemporary Contexts: Yolŋu-Matha at Galiwin'ku*, Batchelor College, Batchelor, 1996, pp 1–20.
- 18 Ronald M Berndt and Catherine H Berndt, *Arnhem Land: Its History and Its People*, Cheshire, Melbourne, 1954, p 22; Peter M Worsley, 'Early Asian contacts with Australia', *Past and Present*, vol 7, 1955, pp 3–4; Donald Thomson, 'Early Macassar visitors to Arnhem Land and their influence on its people', *Walkabout*, vol 23, 1957, pp 29–31; W L Warner, *A Black Civilisation: A Social Study of an Australian Tribe*, rev. edn, Harper, New York, 1969, pp 455–8; John Rudder, 'Yolŋu Cosmology: An Unchanging Cosmos Incorporating a Rapidly Changing World', DPhil thesis, Australian National University, 1993, pp 336–7; Ian S McIntosh, 'The dog and the myth maker: Macassans and Aborigines in northeast Arnhem Land', *Australian Folklore*, vol 9, 1994, pp 77–81; Ian S McIntosh, 'Islam and Australia's Aborigines? A perspective from northeast Arnhem Land', *Journal of Religious History*, vol 20, no 1, 1996, pp 53–77; Peter G Toner, 'Ideology, influence and innovation: The impact of Macassan contact on Yolŋu music', *Perfect Beat*, vol 5, no 1, 2000, pp 22–41; Corn, 'Dreamtime Wisdom', op. cit., pp 152–76; Aaron Corn and Neparrŋa Gumbula, 'Djiliwirri ganha dhärranhana, wäŋa limurrŋgu: The creative foundations of a Yolŋu popular song', *Australasian Music Research*, vol 7, 2003, pp 64–5.
- 19 Continual attempts to subordinate Yolŋu to (post)colonial metanarratives of state and church in post-federation Australia have been subverted in each generation by the consummate ability of Yolŋu leaders to deploy their hereditary canons of sacra in processually legal ways that, for them and their communities, re-assert the permanence of Yolŋu sovereignty and the eternal ancestral agency that underscores it. As discussed by Ian McIntosh, 'Anthropology, self-determination and aboriginal belief in the Christian God', *Oceania*, vol 67, 1997, pp 273–88, the construction of a 'memorial' comprising a Christian crucifix and hereditary *raŋga* (restricted sacred objects) that are conventionally seen only by men in revelatory *ŋärra'* (restricted) ceremonies in open view right outside the Methodist church at Galiwin'ku by Wangurri, Warramiri, Golumala and Djambarrpuynŋ Yolŋu leaders in 1957 made it impossible for the mission-imposed practice of Christianity to continue in Yolŋu communities without open acknowledgement and acceptance that the practice of their pre-existing religion would also continue along its own trajectory. Dubbed the 'Adjustment Movement' by Ronald Berndt in *An Adjustment Movement in Arnhem Land*, Cahiers de L'Homme, Paris, 1962, this event stands as a direct precursor to the Mäwul Rom Project as Djiniyini Gondarra's *bäpa* (father) was one of key agents in its production.
- 20 Yothu Yindi, loc. cit.
- 21 Williams, op. cit., passim; Yunupinŋu (ed.), op. cit., pp 1–17 and 210–27; Djiniyini Gondarra, 'Customary law', Garma Festival, 2001: *ŋärra'* Legal Forum, session 7, 2001, pp 15–20 www.garma.telstra.com/pdfs/ngaarra/Ngaarra_session07.pdf; Aaron Corn and Neparrŋa Gumbula, 'Now Balanda say we lost our land in 1788: Challenges to the recognition of Yolŋu law in contemporary Australia' in Marcia Langton et al. (eds), *Honour Among Nations? Treaties and Agreements with Indigenous Peoples*, Melbourne University Publishing, Melbourne, 2004, pp 101–16.
- 22 Williams, op. cit., p 29; Ian Keen, *Knowledge and Secrecy in an Aboriginal Religion*, Clarendon Press, Oxford, 1994, p 2; Gondarra, op. cit., p 19.
- 23 For further discussion of moieties and Yolŋu *gurrutu* (kinship), see Aaron Corn and Neparrŋa Gumbula, 'Rom and the academy re-positioned: Binary models in Yolŋu intellectual traditions and their application to wider inter-cultural dialogues' in Lynette Russell (ed.), *Boundary Writing: An Exploration of Race, Culture and Gender Binaries in Contemporary Australia*, University of Hawai'i Press, Honolulu, 2005.
- 24 Howard Morphy, *Ancestral Connections: Art and an Aboriginal System of Knowledge*, University of Chicago Press, Chicago, 1991, pp 66–7.
- 25 For further discussion of same-moiety co-ownership and cooperation through *rengiti* relationships, see Keen, op. cit., p 312 and Morphy, op. cit., p 59.

Notes to pp 27–30

- 26 Keen, op. cit., pp 94–5, 201–39 and 309–10.
 27 *ibid.*
 28 Fiona Magowan, ‘Melodies of Mourning: A Study of Form and Meaning in Yolŋu Women’s Music and Dance in Traditional and Christian Ritual Contexts’, DPhil thesis, Oxford, 1994; Steven Knopoff, ‘Yolŋu’ in Warren Bebbington (ed.), *The Oxford Companion to Australian Music*, Oxford University Press, Melbourne, 1997, pp 602–3.
 29 Knopoff, loc. cit.; Fiona Magowan, ‘Shadows of song: Exploring research and performance strategies in the Yolŋu women’s crying songs’, *Oceania*, vol 72, 2001, pp 89–104.
 30 Steven Knopoff, ‘Yuŋa manikay: Juxtaposition of ancestral and contemporary elements in the performance of Yolŋu clan songs’, *Yearbook for Traditional Music*, vol 24, 1992, pp 148–50; Knopoff, ‘Yolŋu’, op. cit., p 603; Toner, op. cit., pp 35–7.
 31 Aaron Corn, ‘Burr-gi wargugu ngu-ninya rrawa: The Letterstick Band and hereditary ties to estate through song’, *Musicology Australia*, vol 25, 2002, pp 76–101; Corn, ‘Dreamtime Wisdom’, op. cit., *passim*; Corn and Gumbula, ‘Djiliwirri’, op. cit., pp 55–66; Corn and Gumbula, ‘Now Balanda say’, loc. cit.; Corn and Gumbula, ‘Rom and the academy’, loc. cit.
 32 Stephen Johnson (prod.), *Yolŋu Boy*, Palace Films, 22054SDW, 2000.
 33 Andrish Saint-Clare discusses his role as director of *Trepang* in Alan Whykes, ‘Trepang: Indigenous Australians and Indonesians celebrate a shared story across the Arafura Sea’, *Inside Indonesia*, no 59, www.insideindonesia.org/edit59/andrs.htm, 1999.
 34 Allan Collins and Tom Murray (dirs), *Dhākiyarr versus the King*, Film Australia, 2004.
 35 Corn, ‘Dreamtime Wisdom’, op. cit., pp 222 and 228.
 36 Yothu Yindi, loc. cit.
 37 Djalaliŋba Yunupijū et al., ‘Yirrkala Petition to the House of Representatives’, Yirrkala, 1963. To read the entire petition see Attwood and Markus (eds), op. cit., pp 202–3 and to view the form in which it was originally presented to Hawke — as two identical typescripts surrounded by Dhuwa designs on one panel and Yirritja designs on the other — see Morphy, *Aboriginal Art*, op. cit., pp 256–7.
 38 *Milirrpum and Others versus NABALCO Pty Ltd and the Commonwealth of Australia*, vol 17, 1971, FLR 141.
 39 Williams, op. cit., pp 109–203.
 40 *Milirrpum v NABALCO*, op. cit., FLR 141–294.
 41 Yothu Yindi, ‘Luku-Wājawuy Manikay (1788)’, *Homeland Movement*, Mushroom, D19520, 1989, track 15. For further discussion of this song, see Corn and Gumbula, ‘Now Balanda say’, loc. cit.
 42 Yothu Yindi, ‘Gunitjpirr Man’, *Freedom*, Mushroom, TVD93380, 1993, track 11.
 43 Yothu Yindi, ‘Written on a Bark’, *One Blood*, Mushroom, MUSH332292, 1999, track 9.
 44 Yothu Yindi, ‘Lonely Tree’, *Garma*, Mushroom, MUSH332822, 2000, track 11.
 45 Yothu Yindi, ‘Gone is the Land’, *Garma*, Mushroom, MUSH332822, 2000, track 12.
 46 Gondarra, loc. cit.
 47 Morphy, *Ancestral Connections*, loc. cit.
 48 Helen Verran, ‘Garma Cultural Studies Institute: Read about the conceptual background to the GCSI’ in Yothu Yindi Foundation, *Garma Festival*, www.garma.telstra.com/education.html, 2000.
 49 Yothu Yindi, *Birrkuda: Wild Honey*, Mushroom, TVD93461, 1996, notes.
 50 Yothu Yindi, ‘Mainstream’, *Homeland Movement*, Mushroom, D19520, 1989, track 1.
 51 Mandawuy Yunupijū, ‘Yothu Yindi: Finding Balance’, *Race and Class*, vol 35, no 4, 1995, pp 114–20; Mandawuy Yunupijū, taped interview with Aaron Corn, Melbourne, 8 March 2001; Helen Verran, response to lecture by Mandawuy Yunupijū and Aaron Corn at the Garma Festival of Traditional Culture, Guḷkuḷa, 24 August 2001.
 52 Yunupijū with Corn, loc. cit.
 53 Yunupijū with Corn, loc. cit.. For further discussion of *ganma* and the creative applications of this concept by Yothu Yindi, see Patrick McConvell, ‘Cultural domain separation: Two-way street or blind alley? Stephen Harris and the neo-Whorfians on Aboriginal education’, *Australian Aboriginal Studies*, vol 9, no 1, 1991, pp 13–24; Karl Neuenfeldt, ‘Yothu Yindi and *ganma*: The cultural transposition of Aboriginal agenda through metaphor and music’, *Journal of Australian Studies*, vol 38, 1993, pp 1–11; and Fiona Magowan, ‘Traditions of the mind or the music-video:

- Imagining the imagination in Yothu Yindi's "Tribal Voice", *Arena Journal*, no 7, 1996, pp 99–110.
- 54 For further analysis of 'Mainstream', see Corn, 'Dreamtime Wisdom', op. cit., pp 77–82.
- 55 Yunupijū, loc. cit.; McConvell, loc. cit.; Mandawuy Yunupijū, interview in Jo O'Sullivan (prod.), *Sing Loud Play Strong! First Festival of Aboriginal Rock Music*, CAAMA Productions, CAAMA V299, 1988; Yirrkala Community School Action Group, *Towards a Ganma Curriculum in Yolŋu Schools*, Yirrkala Community School, Yirrkala, 1988; Michael J Christie, 'Literacy, genocide and the media', *Aboriginal Child at School*, vol 17, no 5, 1989, pp 27–32; Stephen Harris, *Two-Way Aboriginal Schooling: Education and Cultural Survival*, Aboriginal Studies Press, Canberra, 1990; Raymattja Marika, Dayŋawa ŋurruwutthun and Leon White, 'Always together, yaka gāna: Participatory research at Yirrkala as part of the development of a Yolŋu education', *Convergence*, vol 25, no 1, 1989, pp 23–39.
- 56 Neuenfeldt, op. cit., pp 6–7.
- 57 Yothu Yindi, 'Treaty', loc. cit.
- 58 Djalū Gurrūwiwi and Gurritjiri Gurrūwiwi, *Waḷuka*, Yothu Yindi Foundation, 2001, and Djalū Gurrūwiwi and Gurritjiri Gurrūwiwi, *Diltjimurru*, Rripaŋu Yiḍaki, 2003.
- 59 Djalū Gurrūwiwi, Larritjanŋa Gurrūwiwi and Barnnyulnyul Wunuyŋmurra, *Djalū Plays and Teaches Yiḍaki*, vol 1, Yothu Yindi Foundation, 2001, and Djalū Gurrūwiwi and Larritjanŋa Gurrūwiwi, *Djalū Plays and Teaches Yiḍaki*, vol 2, Yothu Yindi Foundation, 2003.
- 60 Djalū Gurrūwiwi, *yidaki* forum for the Symposium on Indigenous Performance at the Garma Festival of Traditional Culture, Gulkula, 12 August 2003.
- 61 Gondarra, op. cit., p 16.
- 62 Djiniyini Gondarra in Māwul Rom Project, www.wukindi.com/main.htm, 2004.
- 63 Māwul Rom Project, 'Project Description', www.wukindi.com/main.htm, 2004.
- 64 This body of literature includes Berndt and Berndt, op. cit., passim; Warner, op. cit., passim; Ian Dunlop (prod), *The Yirrkala Film Project*, 22 films, Film Australia, 1970–96; Morphy, op. cit., passim; Keen, op. cit., passim; Williams, op. cit., passim; Rudder, op. cit., passim; Franca Tamisari, 'Body, vision and movement: In the footprints of the ancestors', *Oceania*, vol 68, 1998, pp 249–70; McIntosh, 'The dog', loc. cit.; McIntosh, 'Islam', loc. cit.; Magowan, 'Melodies of Mourning', loc. cit.; Magowan, 'Shadows of song', loc. cit.; Magowan, 'Traditions of the mind', loc. cit.; Cooke, loc. cit.; Toner, op. cit., passim; and Donald Thomson, *Donald Thomson in Arnhem Land*, rev. edn, Melbourne University Publishing, Melbourne, 2003.
- 65 Galarrwuy Yunupijū, opening address to the Māwul Rom Cross-Cultural Mediation Training Workshop, Dhuḍupu, 21 June 2004.

Intention and Iterability in *Cubillo v Commonwealth* Trish Luker

- 1 Jacques Derrida, 'Signature Event Context' in *Margins of Philosophy*, translated with additional notes by Alan Bass, Harvester Wheatsheaf, New York, 1982, p 328.
- 2 *Cubillo v Commonwealth* (2000) 174 ALR 97; (2000) FCA 1084 (hereafter *Cubillo*).
- 3 *Cubillo*, para 1160.
- 4 *Cubillo*, Summary of reasons for judgment, para 9.
- 5 Exhibit #A9: Pro Forma Consent Document, tendered 4 August 1998 by Mr Rush QC for the Applicants.
- 6 Throughout the decision and in evidence presented at the trial, the mark on the form of consent was referred to as a thumbprint; however, the form does not state this, but rather includes the words 'her mark'. It is unclear whether the mark is a thumbprint or a fingerprint and evidence to clarify this was not given at the trial.
- 7 The other two key cases are *Kruger v Commonwealth* (1997) 190 CLR 1, a challenge to the constitutionality of the *Aboriginals Ordinance 1918*, and *Williams v Minister, Aboriginal Land Rights Act 1983* (1999) 25 FamLR 86 and the appeal [2000] *Aust Torts Reports* P81–578, 64,136, a claim against the State of NSW.
- 8 Piyel Haldar, 'The evidencer's eye: representations of truth in the laws of evidence', *Law and Critique*, vol II, no 2, 1991, p 172.
- 9 *ibid.*, p 186.
- 10 *ibid.*, p 185.