109. What is Evidence? Part 7: Real conversation around Yolnu Law

In this podcast series, Maratja Dhamarrandji talks with Richard Trudgen about how Yolnu people have lost their humanity, their respect for the law and for each other that used to be there when Yolnu leaders applied the original Australian law. They talk about how only a few decades ago, Arnhem Land communities were among the safest in Australia. Now, with the loss of culture, identity and leadership, Yolnu people are attacking each other, youths join gangs and there is more domestic violence and lawlessness than ever before.

The root cause come from confusion around Balanda (mainstream) Australian law and how Balanda (and some Yolŋu) do not understand the system of Yolŋu law still in existence. If you are confused, how can you show respect or follow the law? Another problem is that if Yolŋu don't respect Balanda law, they are arrested and taken to jail. But if Balanda don't respect Yolŋu law, nothing happens. So, even though it is still in existence, Yolŋu law has been rendered powerless to create its aim of mägaya, peace and tranquillity.

Richard and Maratja discuss steps to change this problem. Balanda need to recognise the dalkarra djirrikay, Yolnu political leaders as the real political leaders that they should be talking to and working through issues with. Especially when the Northern Territory government is talking about 'regional authority'. Balanda also need to recognise the authority of Yolnu police officers rather than undermining their power by not allowing them to carry weapons to effectively keep the peace.

Maratja states that now is the time to bring Yolŋu law into a new level of sophistication and understanding, and Richard agrees, but that Balanda need to do half of the heavy lifting. Many mainstream politicians and bureaucrats have told him 'it's too hard for us to think about Yolŋu law'. But it's just as hard for Yolŋu to think about mainstream law! If we want peace and order in Yolŋu communities, we need to recognise the original Australian law, led by dalkarra djirrikay, with their own methods of dealing with domestic violence, crime and lawlessness that have worked for Yolŋu communities for over 40,000 years. Then we'll get somewhere. We don't have to continue filling up the courts and jails for the next decade.

Note: Due to lack of resources and time, the complete Yolngu Matha (ym) translation of this series has not been finalised. This translation is done at our own time and cost. Because of the important nature of this subject we will update this as soon as possible.

Story No. 1: Humanity, lost culture, lawlessness

Maratja Dhamarrandji: Yo ym...

Richard Trudgen: Yo, ym... **MD:** ym... **RT:** ym... MD: ym... question ym... RT: Yeah. MD: Question. RT: Go. MD: ym... there's ym... Yolgu ym... RT: Yeah. **MD:** ym... RT: Yeah. MD: ym... Yolqu ym... **RT:** ym... **MD:** ym... RT: Yeah. **MD:** ym... yo. RT: So it could be the fact of Rupiah that has changed people's attitudes you're saying there? MD: Yo, yo ym... yo. RT: Yeah. MD: Yo. **RT:** Or it could be some other things. MD: Yo, yo.

RT: ym... just give me a picture of what sort of problems are you seeing on

of ym... that you're seeing?

community that's caused by this attitude people have now, what sort of, what sort

MD: Yo ym... respecting ym... one another ym... **RT:** So it's people not respecting each other? MD: Yo. RT: But are you saying that they're also people not showing love towards each other? MD: Yo ym... RT: Yeah. **MD:** ym... towards one another. RT: What do you by ym... Yolnu ym... MD: ym... Yolnu you have to be ym... gentle ym... RT: Yeah. **MD:** ym... mercy justice and mercy. **RT:** Showing mercy. **MD:** Yo, yo, yo respecting one another. RT: And when you're using that word like ym... Yolgu ym... like treating each other like... **MD:** ...as a person. RT: Like human beings. MD: Human beings yo. RT: Human beings. **MD:** We are Yolnu ym... we have to respect one another ym... RT: Hmm.

MD: ym...

RT: Hmm.

MD: ym...

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RT: Yeah so people have lost their humanity ym...

MD: Yo, yo, yo ym... lost ym...

RT: It used to be there or what?

MD: It used to be there when the leadership ym... Yolnu ym...

RT: Hmm.

MD: ym... yo.

RT: So it used to be there when the leaders applied the law. Madayin law?

MD: Yo.

RT: And those systems of rom, the traditional systems of law...

MD: Yo.

RT: ...that respect used to be there, that humanity used to be there, yeah?

MD: Hmm.

RT: But you're saying it's gone now, hey?

MD: ym... respect ym...

RT: Right.

MD: ym...

RT: Right.

MD: ym... yo ym...

RT: Hmm.

MD: ym... something is wrong ym...

RT: It's strange because even the police are saying that sort of thing, they're calling out for leaders to show some leadership but something else is missing altogether hey?

MD: Yo.

RT: Respect for the law and respect for each other, respect for people.

MD: Yo.

RT: ym... this, this is sad because it means Yolŋu culture is really dying here around law, hey?

MD: Yo, yo.

RT: Yeah can you give me some more examples like what it looks like on community, I'm hearing that there is now young people who have got gangs, people are attacking each other, there's more domestic violence, are these the sort of things you are talking about?

MD: Yeah they're the things that I'm talking about ym...

RT: Hmm.

MD: ym...

RT: Yeah.

MD: Yo ym...

RT: Hmm, hmm.

MD: Yo amongst leaders ym...

RT: Hmm.

MD: ym... jurisdictions.

RT: Yeah.

MD: ym...

RT: Yeah.

MD: ym... area ym... boundaries ym... boundaries ym...

RT: Hmm.

MD: ym...

RT: Yeah.

MD: ym... boundaries ym... yo.

RT: So there's not a clear division of who's in charge, who's...

MD: Yo.

RT: ...who are the leaders anymore, it's not clear and you said before...

MD: Yo.

RT: ...there's like a spirit of...

MD: Dictatorship anarchy.

RT: Everybody wanting to be the bosses rather than working together as a community, hey?

MD: Yo ym...

RT: Yeah ym... let's talk back again and talk about this a bit more in a second program this morning, hey?

MD: Yo.

Story No. 2: How can we return to our way of peaceful law

MD: Yo ym...

RT: Hmm.

MD: ym... happening ym...

RT: Yeah ym...

MD: ym... yo.

RT: Yeah back to an ym...

MD: Yo ym...

RT: How can we return back to what Balanda call in English, 'law and order'?

MD: Yo.

RT: See Balanda are always talking about we need to have law and order.

MD: Yo.

RT: Mägaya ym... law and order ym... hey

MD: Yo, yo magaya ym...

RT: Yeah.

MD: Law and order.

RT: Hmm and peace, and instead of ym... trouble all the time.

MD: Yo.

RT: Ah ym... it's a big question but to me, having lived with Yolnu now for over 40 years...

MD: Hmm.

RT: ym... even just 40 years ago, 30 years ago, I used to tell Balanda that Yolŋu community is the safest community I've ever lived in, yeah?

MD: Yo.

RT: I used to tell them that, hey?

MD: ym...

RT: Because people used to ask me when ym... yeah when I returned to my own community, people used to say 'but how can you live with Aboriginal people - they're so lawless', and I said 'no they are the safest communities in Australia, the communities in Arnhem Land', right ym... Aboriginal people across Australia ym... Queensland ym... Western Australia, they weren't safe communities, they were already ym... they were already lawless, yeah?

MD: Yo.

RT: In the 70s, 80s and 90s yeah, but Yolgu especially the safest communities for ym... for Balanda ym... hey?

MD: Yo.

RT: And you're asking me what has happened, can we find out what's happened so we can return back to that ym... how do I say it ym... hey?

MD: ym...

RT: How can we return back to that, yeah?

MD: Yo.

RT: It seems to me ym... that there is one thing, like you said there that might help us see that you already said it in the last program, you said in the past ym... the ym...

MD: Yo.

RT: They were the ones who were the leaders of the community controlling the community, hey?

MD: Yo.

RT: Through the village council, but not even through the village council cause that was an ym... structure too.

MD: Yo.

RT: They were controlling it through ym...

MD: Yo.

RT: Hey.

MD: Yo.

RT: And Yolnu were happy to live with that because that was ym... rom ym... Mägaya ym... hey?

MD: Yo, yo.

RT: But what has happened, Balanda have come in and I'm not going to say Balanda ym... that's not right Balanda ym...

MD: Yo.

RT: But Balanda are confused about your system of law.

MD: Yo.

RT: But in being confused about it, that means they don't show respect to it.

MD: Yo.

RT: Yeah.

MD: Yo.

RT: It's like when they're confused about it, it means they also don't show respect to it and like we said before ym... also...

MD: Yo. RT: ...they ym... or ym... hey? MD: Hmm. RT: Because they ym... because they're confused, they don't know any better. MD: Yo. RT: But that then the lack of respect shown by Balanda ym... rom ym... that starts to then, well it starts to ym... take the authority. MD: Yo. RT: Hey? MD: Yo. **RT:** Take the authority out of your law systems, hey? MD: Yo ym... Mägaya rom ym... respecting one another Yolnu. RT: When you say ym... MD: Reminding how to respect one another ym... RT: Yep. **MD:** ym... RT: Yes.

MD: ym...

RT: Yep.

MD: Underestimating, being disrespectful.

RT: Yeah.

MD: It's the same as ym...

RT: Right.

MD: ym... Balanda ym... Balanda ym...

RT: Right.

MD: As long as ym... criteria ym...

RT: Yeah.

MD: ym...

RT: If you know the full extent of Balanda law.

MD: Yo.

RT: And you're not confused about it, then you can show respect to that then you can follow it and stick to it, yeah?

MD: Yo, yeah, yeah.

RT: And see this is the big difference if Yolnu don't respect Balanda law, what happens, you get arrested and taken to jail, hey?

MD: Yeah of course yep, yeah, yeah, yeah.

RT: If Balanda come out and don't respect Yolqu law, what happens?

MD: ym...

RT: Nothing.

MD: Because ym...

RT: Nothing, nothing happens.

MD: Yo, yo, yo.

RT: So the original Australian law, if people don't respect that, they don't respect your ym... they don't even recognise, Northern Territory government don't even recognise the political leaders, Lands Council doesn't even recognise the political leaders, nobody recognises the political leaders, so they are just treated like ym... they are treated like children.

MD: Yo.

RT: And this is the problem, because this is exactly what's happening now where a lot of Yolnu are looking at the Balanda law like it's, and their politicians, like they're just ym... children.

MD: Yo.

RT: Like what's happening in Alice Springs with the young people, with the teenagers and everything else and happening on community and now it's happening in Darwin, where now there's a high level of lawlessness and anarchy and Aboriginal people are, what we're saying, kicking back and causing trouble, they're breaking into houses, they're breaking into cars, stealing...

MD: Yo.

RT: All sorts of bad things.

MD: Yo.

RT: This is because of lack of respect for the Australian law which is the original Australian law, was your law.

MD: Hmm.

RT: Not ym... rom was the ym... Australian law, hey?

MD: Yo.

RT: And if Balanda are not going to show respect to that, then we have this breakdown in respect of the keepers of the law..

MD: Yo.

RT: The ym... hey?

MD: Yo, yo.

RT: And we descend into anarchy, we descend into lawlessness.

MD: Yo.

RT: And the example is there in what we just said, if you break Balanda law you go to jail or you get fined, you have to pay a fine ym... Rupiah ym... hey?

MD: Yo, yo.

RT: But if Balanda break Yolnu law, the First Australian law, nothing happens.

MD: ym...

RT: Hmm.

MD: ym... Balanda rom ym...

RT: Yeah.

MD: ym... Balanda ym... Yolnu rom ym...

RT: So your authority and your...

MD: Yo.

RT: ...sanctions at law have been taken off you and your law is now powerless.

MD: Yo.

RT: Powerless to create ym... situation.

MD: Yo ym...

RT: Yo, so your law is now powerless to create that peace, tranquillity.

MD: Yo.

RT: That mägaya.

MD: Yo.

RT: We say the Big Peace ym...

MD: Yo ym.. rom Mägaya ym...

RT: That ym... rom which is the law for peace and tranquillity and freedom to be Yolnu ym... it's human.

MD: ym... Yolnu ym... Yolnu.

RT: ym... Yolnu ym...

MD: ym...

RT: Right.

MD: ym... yo.

RT: To be truly human to each other ym...

MD: Yo, yo.

RT: ym... let's come back again and we'll continue to talk about this some more ym...

MD: ym...

Story No. 3: How can we return to a Rule of Law



RT: Something has caused this.

MD: Yo.

RT: But you'd like to find a way to return back to that where you can treat each other, not to be in dispute and in trouble with each other all the time, but return back to where you can be ym... true relations with each other, supporting...

MD: Yo.

RT: ...each other, helping each other, hey?

MD: Yo, yo exactly.

RT: Yo.

MD: ym...

RT: Yeah that's what you want.

MD: Yo, yo ym... happening ym...

RT: Yeah.

MD: ym... happening ym...

RT: Well.

MD: ym...

RT: What are the main issues we need to return back to, yeah?

MD: Yo.

RT: ym... I've been thinking about this now, for a couple of decades, at least 20 years since I've seen Yolnu communities go towards more and more anarchy. Where I've seen the leaders throw up their hands, as we say in English, 'we throw up our hands and walk away', they say ym... hey?

MD: Yo.

RT: And back in the 70s we were talking then about recognition of traditional law, there was even a big commission talking about it from the federal government, so I've been thinking about it for many, many decades now and it seems to me that there needs to be three clear things, hey?

MD: Yo...

RT: When Yolqu had control, when Yolqu had control ym... rom ym...

MD: Yo.

RT: You didn't have these problems; you didn't have these problems when you had control hey ym...

MD: Yo.

RT: ym... Balanda ym... hey?

MD: Yo.

RT: There was what Balanda call law and order situation, there was good law and order, hey?

MD: Yo.

RT: There was ym... and there was also mägaya ym... there was peace, and people could think about going to work getting ym... advancing themselves ym... community ym... we had back then housing associations, Yolŋu were running that, Yolŋu were running that ym... and different things on the community was happening with Yolŋu fully involved, yeah?

MD: Yo.

RT: And as a community development ym... what we call a community development officer that's ym... and community educator, I know that you need to have a rule of law, you need to have ym... rom ym... if ym... mägaya ym... community ym... community ym... for ym... for school for everything, everything ym... hey?

MD: Yo.

RT: You need to have what we say in English, a rule of law.

MD: Yo ym... Balanda ym...

RT: How can we return to a rule of law, hey?

MD: Yo, yo, yo ym... mägaya rom ym...

RT: Yeah.

MD: Yolnu ym... go forward ym...

RT: Yeah.

MD: ym... picture ym...

RT: Right now, to have a rule of law, to have ym... rom ym... I know ym... a little bit, the Balanda are sort of saying well Yolnu just have to accept ym... Balanda rom ym... that's what they're sort of saying, hey?

MD: Yo.

RT: But that's not going to work for you because you've already ym... you've already assented to your law, that's the law that you know, that's the law that's your system, your structure and it's also the ym... rom the original Australian law, hey?

MD: Yo.

RT: So it was here before the Balanda law.

MD: Yo.

RT: And it's still here, and it's still here.

MD: Yo.

RT: So if we're going to go back to that, then there has to be an acceptance by Balanda of your ym... hey?

MD: Yo.

RT: So there are three main things that we need to talk about, three main things.

MD: Ok.

RT: To have acceptance of your law they have to first of all maybe four, maybe five ym... yep, first of all they have to ym... rom hey. Now that might be difficult for Balanda because they're ym... rom hey?

MD: Yo.

RT: But what they could do straight away is ym... recognise at least three things, they could recognise ym... right?

MD: Yo.

RT: They could recognise your political leaders as the real political leaders that they should be talking to and working through, hey?

MD: Yo

RT: Especially when the Northern Territory government ym... is talking about the regional authority, hey?

MD: Yo.

RT: We should be talking with the ym... not the ym... Yolnu in the Balanda ym... organisations.

MD: Yo.

RT: Not the Balanda, not the Balanda system, it should be the original Australian system of rom, of law ym... mägaya ym... you've already got a system of election, of selecting your leaders, it's been there for thousands of years, hey?

MD: Yo, yo.

RT: So that's the first thing that Balanda could just recognise tomorrow, they could say, 'oh so you've got political leaders'. Right now in Canberra they're talking about setting up a new body of First Nations People, and they're talking about having regional committees right now, well if we just have another Balanda regional committee another ym... regional committee it's not going to work. But straight away if they Balanda could pick up on the ym... and just say, 'ok ym... if they said that, hey?

MD: Yo.

RT: To me that could be the first step but ym... we've got one more program this morning ym... and we'll just talk through this a little bit more ym...

MD: ym...

Story No. 4: Need to start a real conversation about Yolnu law with Balanda

MD: Yo ym		

RT: Yeah.

MD: ym...

RT: Yeah.

MD: Yolŋu.

RT: Hmm.

MD: Yo ym... law and order, mägaya rom ym... RT: Yep. **MD:** ym... RT: Yep. **MD:** Yo ym... RT: Yep. MD: ym... Yolgu ym... RT: Hmm. **MD:** As we were growing up ym... respecting ym... yo. RT: Yeah. MD: Yo. RT: Yeah. MD: ym... Balanda ym... RT: Yeah. **MD:** We want ym... rom ym... RT: Hmm. MD: ym... still ym... Yolgu. RT: Yes. MD: Law abiding citizens within Yolnu rom, Balanda rom. RT: Hmm. MD: ym... rom ym... justice ym... righteousness ym... **RT**: ym... **MD:** ym... respecting. RT: Yes.

MD: ym...

RT: Yes.

MD: Yo.

RT: So the first thing you're saying, I won't go back right over it ym...

MD: Yo.

RT: But you need a chance to, as you're saying, a chance to bring your law into a new level of sophistication?

MD: Yo.

RT: New level of...

MD: Understanding and reconciliation ym...

RT: Yeah that means there needs to be understanding and reconciliation for your law to become the law ym...

MD: Yo.

RT: New level of sophistication, yeah?

MD: Yo.

RT: It won't happen unless Balanda do half of what we call after the heavy lifting we call it here.

MD: Yo, yeah.

RT: Half of the ym... hey?

MD: Yo, yo.

RT: It's no good for Balanda and Balanda politicians have said to me and bureaucrats have said to me, oh for us to even think about Yolnu law is too hard, right? They say that.

MD: Yo.

RT: They say, oh it's too hard.

MD: Yo.

RT: Well why don't they realise that it's just as hard for Yolnu ym...?

MD: Oh yeah.

RT: To just jump over into Balanda law, hey?

MD: Yo of course, of course exactly Balanda they same yo.

RT: That's right, so if you want peace and order in communities, why not use the original Australian law the ym... rom ym... like the ym... Ma<u>d</u>ayin rom, like your Ma<u>d</u>ayin system of law, why not use that, hey?

MD: Yo.

RT: That's my plea to Balanda, hey?

MD: Yo ym... because with recognition of the rom ym... we have to follow the rom no one is above the law, everyone is under the law, we have to follow the law, ym... we have to follow the law ym... respecting ym... respecting ym...

RT: Yes.

MD: ym...

RT: Yeah.

MD: Yo ym...

RT: Let's stop ym... each other's law and all that.

MD: Yo.

RT: Let's have some recognition.

MD: Yo.

RT: Let's get somewhere.

MD: Yo.

RT: Rather than in the next 20 years just filling up the jails more and more and more.

MD: Yo, exactly.

RT: No development, no employment, no nothing because we have not got a rule of law in Yolŋu communities.

MD: Yo.

RT: We need a rule of law in the ym...

MD: Yo.

RT: In all Yolnu communities.

MD: Yo, yo.

RT: So I just want to share with you two more points to think about before we finish this morning, hey?

MD: Yo ym...

RT: Balanda should accept if they just recognise the ym... recognise them.

MD: Yo.

RT: Get them to come and talk with them ym... that's one step.

MD: Yo.

RT: Secondly, they have to recognise the ym...

MD: ym...

RT: The Yolnu executive government ym... police in Balanda, yeah?

MD: Yo ym...

RT: Yeah.

MD: We'd have to work through that one understand, come to some...

RT: Agreement.

MD: Understanding, agreement, yep.

RT: Yeah, work through it.

MD: Because ym... work through it yeah.

RT: Yeah, don't just have the police on community with all their guns and tasers.

MD: Yo, yeah.

RT: And all their weapons and then at the same time the police are disempowering the traditional police, the traditional police officers.

MD: Yeah.

RT: On those communities ym...

MD: Yeah.

RT: ym... given the authority under Ma<u>d</u>ayin law, so there has to be acceptance of that and as you said, you will need to sit down and work through it.

MD: Of course yeah, absolutely working together ym...

RT: And let's sit down and work through it rather than this childish game of just using...

MD: Yo.

RT: ...Balanda law and we'll just use the modern Aboriginal organisations and we'll say somehow or another, that's Aboriginal law, it's not, it's just a pseudo Balanda law system.

MD: ym...

RT: And it's not the original Australian law that has been here for 60,000 years, it's not, it's a poor example, hey?

MD: ym... Australian government working together ym... work together.

RT: Move away from the ym... let's leave the...

MD: Yo, yo.

RT: ...Mission boy structure, I'll call it that.

MD: Yo, yo.

RT: Mission boy structure, let's leave that behind and return back to the original Australian law, yeah?

MD: Yes, exactly, yo.

RT: Right, yeah.

MD: Yo.

RT: ym... the Yolnu executive government ym... police and ym... yeah.

MD: ym... yo, work through it.

RT: And there needs to be a true acceptance of this, of the sort of the executive arm of government, we call it in English, where you have your peace officers and you have your bureaucrats your ym... Balanda hey and they need to also have some weapons, carry some things. Now the police carry around 38 magnum revolvers and tasers and everything else and the poor old Yolnu police officers just carry around a throwing stick a ym... yeah?

MD: Yo.

RT: But the police are taking the ym... off them.

MD: Yes.

RT: And so they're stopping them from being able to control anybody.

MD: Yo.

RT: Or stop anything or if they carry a ym... spear they are told they can't do that, it's a weapon.

MD: No.

RT: The ym... have to have authority and part of the authority is to be able to carry, and for Yolnu, for thousands of years, is being able to carry that ym... yeah that spear thrower.

MD: Yo.

RT: Yeah but number three, there has to be ym...

MD: Yep.

RT: If the rom is broken, there has to be a sanction at law.

MD: Yep.

RT: If Yolnu law is broken...

MD: Yo.

RT: Yolnu have to be able to apply sanctions against that ym...

MD: Yo.

RT: ym... hey.

MD: Yo ym...

RT: Yeah.

MD: ym... process ym... process of mediation ym...

RT: Yes.

MD: Sanctions ym... for Yolnu ym... system ym... already ym... making sure that we have to do the right thing for the respective clan, follow the Yolnu rom.

RT: To bring the family back together again.

MD: Yo yeah, yeah reconciliation, bring the family together.

RT: Yes.

MD: Making sure that ym... Yolnu ym... committed ym... Yolnu that whole clan is ym... by and they have to carry the shame.

RT: Yeah.

MD: ym... Yolnu have to ym... clan ym... relationship ym... go and rectify, rectify ym... fix the problem ym...

RT: Yeah.

MD: Whatever course they would take ym...

RT: Yes.

MD: ym... already ym...

RT: So you have a system there that can deal with domestic violence.

MD: Yeah.

RT: Can deal with lawlessness, can deal with all that.

MD: Yeah.

RT: We don't have to fill up the courts, we don't have to fill up the jails.

MD: Yo.

RT: And most important we can bring peace back to the communities.

MD: Yo.

RT: Law and order back to the communities but we have to get Balanda in on this conversation and ym... to get...

MD: Yo.

RT: ...and to get Balanda in on this conversation as Yolŋu, Yolŋu...

MD: Yo.

RT: ...we have start using those English words that we've been using through the program so that Balanda can start to hear it, you know, ym... our political leaders.

MD: Hmm.

RT: ym... our Yolŋu police, our Yolŋu police ym... our political leaders, selected by us, appointed by us, government have to recognise and we have to start having true conversations about regional authority and all that sort of stuff which government is spending tens of millions of dollars on now, lots of money on it, right but it's really ym...

MD: Yo.

RT: It's really children's talk.

MD: Yo.

RT: It's not getting down to real law, real diplomatic process of two legal systems talking together ym...

MD: Yo, yo, yo.

RT: ym... rom ym... through the right ym... political leaders and through the bureaucrats, Yolŋu bureaucrats ym... the Balanda bureaucrats ym... political leaders elected at the Northern Territory government and the political leaders elected by the Yolŋu, hey?

MD: Yo.

RT: ym... we're out of time this morning, it's a very important subject, thanks for raising the question.

MD: ym...

RT: I hope that it's shed some light on it, we say in English, hey?

MD: Yo.

RT: Yo ym...

MD: Yo ym...

RT: Yo.

MD: ym...

RT: Yo.