

110. What is Evidence? Part 8: Restrained and protected by Maḍayin Law

In this podcast series, Maratja Dhamarrandji discusses with Richard Trudgen how Yolŋu are legally 'restrained' or protected under their system of Maḍayin rom, Yolŋu law. They discuss the stages in which Yolŋu learn about the law through initiation processes and discipline of their mind, body and soul, that continues right through their lives, starting from when they are very small children. "We are immersed in the culture of Yolŋu people as we are growing up," Maratja says.

Boys are under the legal protection of their parents until their circumcision ceremony at the age of 12-14. During this ceremony they assent to Yolŋu law and become liable as Yolŋu citizens under the law. They then start to get invited by the elders to other legal forums, where they learn the different levels of Yolŋu law from inside the legal chamber.

Mainstream Australians (Balanda) think Aboriginal culture is songs and dance, but it's actually a legal education system taught through songlines. Whose land it is, whose estate it is, comes through this songline teaching. And the relationship of a person's clan to other clans, five across, such as the Märi, the grandmother's mother's clan and the grandchildren's clan, ties them together as one huge group of people. These are the citizens that operate around your particular corporate clan group. This is hard for a lot of Balanda to understand. But for Yolŋu they grow up with knowledge of these relationships since they were toddlers. The big question then, is how to get this information through to Balanda so there can be a consistency of law across two systems.

"Because at the end of the day we don't want any anarchy," says Maratja. Aboriginal culture is the opposite of anarchy. It's about a strong legal structure put in place to create the big peace, or mägaya. Which absolutely everybody wants.

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: We are restrained by our Maḍayin law

Maratja Dhamarrandji: Yo ym... good morning.

Richard Trudgen: Yo, ym... good morning.

MD: ym...

RT: Yeah.

MD: Rom ym... Balanda ym... Yolŋu rom ym... rom ym... rom ym...

RT: ym...

MD: ym...

RT: So what does that mean, that's a new word for me.

MD: ym... rom ym... Madayin rom ym...

RT: Hmm.

MD: ym... rom ym...

RT: Yeah.

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

RT: Yeah, yo, yo.

MD: Restraining.

RT: So...

MD: Restraining ym...

RT: So you're saying there...

MD: ym...

RT: You're saying there, because your law has been in existence for thousands of years now...

MD: Yo, yo.

RT: Your law, I'm getting you a picture now...

MD: Yep.

RT: ...your law legally restrains you, hey?

MD: Yep.

RT: You're restrained legally by the Madayin law.

MD: Yo.

RT: Hey?

MD: Yo, yo and it's ym... foundation ym... rom ym... legally ym...

RT: Yeah.

MD: Yo.

RT: Yeah.

MD: ym... without rom ym...

RT: Everything is meaningless without law, yeah?

MD: Yo, yo.

RT: Yeah.

MD: ym...

RT: Huh.

MD: Rom ym... covering it up.

RT: ym...

MD: ym...

RT: ym...

MD: Yo ym...

RT: But ym... has got a different meaning, the law covers you, hey?

MD: Yo.

RT: Like a ym... like a ym... like a shade cover.

MD: Yo, yo, yo, yo.

RT: Yeah, you're protected, underneath it yeah?

MD: Yo yeah.

RT: Protected under that cloak of law we could call it.

MD: Yo.

RT: In English, a cloak of law, hey?

MD: Yo, yo, yo.

RT: Yeah.

MD: Yo because ym...

RT: Yeah.

MD: This people above the law ym... because ym... rom ym... rom we have to follow that rom, no one is above the law here, we're under the rom.

RT: Yeah.

MD: ym... foundation law.

RT: Yep.

MD: Yo.

RT: Now you're saying some people now, some Yolŋu are not following that law and they're putting themselves above the law.

MD: Yo.

RT: Yeah.

MD: Yo by not being respectful ym... rom to the rom ancient law ym... yo.

RT: Yep, yep.

MD: ym...

RT: Yeah, yeah.

MD: Yo.

RT: And there's something else that's restraining you also, I think ym... if I think about it, is because ym... rom ym...

MD: Yo, yo.

RT: You assent to this system of law, this Maḍayin system of law.

MD: Yo.

RT: All your life, you have done the ceremonies to assent to that law, hey?

MD: Yo assent ym... protocols ym... rom ym... initiation ceremony.

RT: Yeah.

MD: ym... rom ym...

RT: So when you started your initiation ceremony as a young person, yeah...

MD: Yo.

RT: ...you started as a ym... that first level of initiation.

MD: Yo.

RT: You came under the law from that point on, yeah?

MD: Yo, yo ym...

RT: Yeah.

MD: Yo ym... qualification ym... respecting ym...

RT: Hmm, so from the time they painted on those emblems.

MD: Yo.

RT: They painted them on your body.

MD: Yo.

RT: It was like your certificate being painted onto you.

MD: Yo.

RT: You turned from...

MD: And most of them would basically ym... coat of arms, yo.

RT: So when they painted on those coat of arms for your clan, your particular...

MD: Yo.

RT: ym... corporate clan.

MD: Yo, yo.

RT: It was like a certificate being put on you and you went as a ym... as a new initiate. You went from what you say in Yolngu Matha, you went from ym... to ym... you went from being unmatured to mature, yeah?

MD: Yo.

RT: In the law hmm.

MD: ym... like you've got first stage and then you've got second stage to qualify.

RT: So there were two stages that were painted on your body.

MD: Yo.

RT: One being the initial stage which we call ym...

MD: Yo.

RT: Not, not really mature, it's like a green fruit, not mature.

MD: Hmm, yo.

RT: And then the second one became like your certificate of achievement.

MD: Yo.

RT: Wear your full coat of arms.

MD: ym... coat of arms ym... painting yo, yo, yo.

RT: So the second painting and the final painting is the painting of your coat of arms for your ym... corporate clan group.

MD: Yo, yo.

RT: Which gives you like a full certificate, hey?

MD: Yo.

RT: Yeah and that's when you come truly under that law.

MD: Yo.

RT: And you should be restrained by the law ym... yeah?

MD: Yo, yo, yo and when they're painting the ym... they're telling a story.

RT: Yeah.

MD: ym... they telling the ym... the ym... begins even that we are painting the story telling about the ym...

RT: Yo.

MD: Discipline ym... yo ym... rom.

RT: Hmm.

MD: And after that ym...

RT: Yeah.

MD: ym...

RT: So after that initial circumcision ceremony...

MD: Yo, yo.

RT: ...you're taught more discipline ym... discipline.

MD: Yo.

RT: Discipline of the mind, the body, soul.

MD: Yo.

RT: And all the stories that connect you to all your different relatives from...

MD: Yo.

RT: ...from grandmother's mother's mother right through to the ym... your grandchildren clan, right across.

MD: Yo. How to know the protocols ym...

RT: Yeah.

MD: Yo discipline ym... what to do and what not to do.

RT: Yeah ym... and...

MD: ym...

RT: ...we need to ym...

MD: ym...

RT: ym... hey?

MD: ym... yo.

RT: And we'll keep talking about this, hey?

MD: ym...

Story No. 2: We are under the discipline of Maḍayin law

MD: Yo ym...

RT: Yo ym... go.

MD: ym... begins ym... even when they're young.

RT: And ym... you're talking about here deep principles of your Yolḷu culture.

MD: Yo.

RT: A lot of Balanda just see, they see Yolḷu culture or Aboriginal culture as just dancing around and all that but you're talking about deep principles of Yolḷu culture.

MD: Yo.

RT: And you're saying ym... the discipline of the mind, the body and the soul starts as a very young person, yeah?

MD: Yo, yo.

RT: ym...

MD: ym... Yolḷu ym... young ym... rom ym... yo.

RT: So the ym... starts at the, it starts strongly at the circumcision ceremony for young men, hey?

MD: Yo.

RT: But you're saying before it even starts before that in childhood or ym...

MD: Yo, yo, yo ym... Märi ym... it's a growing up, we were immersed in the culture of Yolḷu people ever since we were growing up yo ym...

RT: Yeah like ym... they learn ym...

MD: Yo.

RT: I ym... Yolju ym... learning all the ym...

MD: Yo.

RT: So you're immersed.

MD: Yo.

RT: You're immersed in that.

MD: Yo.

RT: That legal system.

MD: Yo.

RT: It's not just a dance, it's a legal education system right from the beginning, yeah?

MD: Yo, yo, yo ym... ask permission ym...

RT: ym...

MD: ym... if we do something we ask permission ym... ask permission, do not ym... take anything that is not yours.

RT: Especially ym...

MD: Yo.

RT: Assets from another person's clan land, yeah?

MD: Yo, yo.

RT: Yep.

MD: Those kinds of rom ym... giving us, given when we were young.

RT: Yep.

MD: ym... growing up.

RT: So you're not just learning songlines.

MD: Yo.

RT: You're learning how to look after the country, whose country is it.

MD: Yo.

RT: How to be respectful to the owners, ask permission before you do anything.

MD: Yo, yo.

RT: You're learning all that law right from the very young person.

MD: Yo, yo, yo.

RT: Whose land it is, whose estate it is ym...

MD: ym...

RT: Everything like that, yep?

MD: Yo, yo.

RT: And that comes a lot through the ym... teaching, the songline teaching.

MD: Yo, yo.

RT: ym... yeah.

MD: Yo, absolutely.

RT: Right.

MD: ym...

RT: Hmm.

MD: ym...

RT: Yeah.

MD: ym...

RT: Hmm.

MD: ym... happening ym... respecting ym... respecting.

RT: Yo, yo, yo.

MD: ym...

RT: Hmm.

MD: ym...

RT: Hmm.

MD: ym...

RT: Hmm.

MD: ym... Yolju ym...

RT: When you say ym... when you say ym... did you say ym...

MD: ym...

RT: ym...

MD: ym...

RT: Hmm.

MD: ym... is part of ym...

RT: Yep.

MD: When you get ym... smoking ym...

RT: ym...

MD: ym... yo ym... part of maturity when you become...

RT: Yeah.

MD: ...from young age come now puberty side ym...

RT: Yeah.

MD: ym... respect ym...

RT: Yeah.

MD: Yo.

RT: So you're saying ym... all this teaching is ym...

MD: ym...

RT: ym... it's not insignificant.

MD: Yo.

RT: It's really...

MD: Yo.

RT: ...it's really substantial education material, yeah?

MD: Yo, yo.

RT: That you're learning and that's what makes you lawful people ym...

MD: Yo.

RT: ym... and as we started this series of conversation it's talking about how you are ym... I'm not saying it right, you are restrained by the law, yeah?

MD: ym...

RT: Right.

MD: ym...

RT: Yep.

MD: We are under the law of the ym... rom that was coming out ym...

RT: All that teaching restrains you through the ym... which is the discipline of the mind, body, soul.

MD: Yo, yo.

RT: And it's teaching about law.

MD: Yo.

RT: Not just dancing and singing.

MD: Yeah.

RT: But it's real teaching about law ym...

MD: Yo, yo, yo.

RT: Yeah ym...

MD: ym... bush recipe ym...

RT: Yeah, yeah, yeah.

MD: ym... platforms, platforms ym... learning from that you know.

RT: Yay, yay ym...

MD: Yo.

RT: And we'll come back and talk some more about this, hey?

MD: Yo, yo ym...

Story No. 3: We have grown up in our system of law

MD: Yo ym...

RT: Yo ym... go.

MD: ym...

RT: Hmm.

MD: ym...

RT: Yeah.

MD: ym...

RT: Yeah.

MD: ym... Yolju ym...

RT: Yeah and ym... I think a lot of Balanda would be surprised to find that this is ym... culture, this is your real culture, yeah?

MD: Yo.

RT: This legal culture, this ym... culture is ym... culture, your main culture yeah a lot of people would be surprised about that, yeah?

MD: Yo.

RT: This is something you think about a lot, or nah?

MD: Yo ym... thinking ym... checks and balances even within the traditional system of law ym... protocols ym...

RT: When you say protocols, when you say protocols, how would you say that in Yolŋu Matha, knowing the protocols, is it knowing ym...?

MD: ym...

RT: ym...

MD: Yo ym...

RT: How you work with and how you help.

MD: Yo, yo.

RT: All your relatives, yeah?

MD: ym... Yolŋu ym...

RT: By being a legal person and by not just being selfish, thinking about yourself, hey?

MD: Yo, yo ym... you've got people ym... appointed ones ym... Yolŋu ym... Yolŋu ym... local ym... rom Yolŋu ym...

RT: Hmm, so you've got political leaders, you've got those people who have got the authority to paint the title deeds, all those sorts of things, everybody's got a role within the system, yeah?

MD: Yep, absolutely, yo, everyone's got a role ym...

RT: Yeah.

MD: Yo.

RT: And that's the big thing you see, because you keep talking about the Märi ym... the grandmother's mother's clan and the grandchildren's clan on the other side of your clan and you talk about the ym... the mother's clan on one side of you and the ym... which is yourself, your own clan and the relationships between those one, two, three, four clans and the ym... clan.

MD: Yo.

RT: Which is the other ym... clan on your other side.

MD: Yo.

RT: Those relationships between those five clans tie you together, like you're really...

MD: Yep.

RT: ...one group of people and ym... hey in the ym... in the citizens that operate around your particular one.

MD: Yep.

RT: ym... corporate clan group, yeah?

MD: Yo.

RT: Yeah, that's ym... it's really big and I know it's hard for a lot of Balanda to understand, yeah?

MD: Yo, yo and we ym... since we were toddlers ym...

RT: Since you were toddlers, yeah?

MD: ym...

RT: Yeah.

MD: It wasn't ym... or nothing learning.

RT: Yeah, yeah.

MD: ym... when you talk about ym... Land Rights ym... we know ym...

RT: It's not ym... it's not a new subject for you.

MD: Yo.

RT: Who are the owners of different things.

MD: Yo.

RT: Yeah the big question still ym... and I know it's a question you're asking is, how do you represent that, how do you talk that through, how do you get that through to Balanda, hey? That's still the big question, how you get that true information through to Balanda so you can have ym... rom ym... Balanda ym... where you can have a consistency of law across two systems, that's still a big question we're asking ym...

MD: Yo ym... rom ym... Yolŋu and Balanda rom, hey.

RT: Yeah.

MD: ym... Balanda ym... democratic system of law ym... hey.

RT: Yeah.

MD: ym... hey.

RT: Yeah.

MD: ym...

RT: Yeah.

MD: ym...

RT: Hmm.

MD: ym...

RT: So Balanda say they have a system of law, a democratic system of law and they want to follow that, and you're saying you've got your own system of law, which is a democratic system of law also where the citizens are the owners of the law, they own the law and as you say, your political leaders, your ym... are the servants of the law, servants of the people, and yet we seem to have trouble of how we can say in English, how we can marry these two systems of law together ym... yeah?

MD: Yo.

RT: Yeah that's the big question how we can do it, hmm.

MD: ym... system of rom ym... cause that's why in our heart, the very core of our heart ym... Yolŋu.

RT: Hmm.

MD: Yolŋu always was and always will be. Yolŋu land. Australia is not just Yolŋu but Torres Strait Islanders ym... cause we've been practicing the rom ym... māgaya rom for ym... to each other and for ym... the very existence ym... to look after land ym... yo.

RT: Yeah from the very beginning of time.

MD: Yo.

RT: This has been your system of law, it's Australian system of law.

MD: Yo.

RT: Yolngu lands are in ym... Australia.

MD: Yo.

RT: And they always will be here.

MD: Hmm.

RT: Yeah yo ym... I hope we can find a way forward in this, yeah?

MD: Me too, I hope so, yo, yo.

RT: And one of the ways forward ym.. is for us to keep talking about this Yolngu ym...

MD: Yo.

RT: ym... some of these English phrases we are using, English terms we are using.

MD: Yo.

RT: So Yolngu can talk out ym... they can talk out ym... system English ym...

MD: Yo ym...

RT: Yeah.

MD: Yo ym...

RT: And you can ym... English ym... like marrying the two systems together ym... Balanda ym... rom systems ym...

MD: Yo.

RT: I think that's one of the ways forward.

MD: Yo.

RT: Because at the moment when I talk about ym... rom government, hey?

MD: Hmm, yo.

RT: Then Balanda they say oh ym... making it up.

MD: No.

RT: When I'm not making it up at all, it's your system of law, yeah?

MD: Yo.

RT: ym...

MD: Yo, ym...

Story No. 4: We don't want anarchy, we want mägaya law

RT: ym... and you're talking about the deep law within your culture ym... rom ym...
rom ym... you're talking about this morning how you are restrained by the system of
law ym... Maḍayin rom ym... yeah?

MD: Yo, yo.

RT: How do you call that again?

MD: ym...

RT: So you're restrained by the law, you're restrained by that system of law which
we call Maḍayin system of law ym... system of law, hey?

MD: ym... ever since we were young ym...

RT: Yeah.

MD: Yo ym... yo.

RT: So from when you are very small children.

MD: Yo, yo.

RT: You're learning this law right through.

MD: Yo.

RT: And you're learning the ym... the discipline of the mind, body, soul.

MD: Yo.

RT: And right up to your circumcision ceremony where we said in that first program?

MD: Yep.

RT: You become mature in the law at that point.

MD: Yeah.

RT: You come under the law, that's usually about age 12, 13, 14 ym...

MD: Yes, yes.

RT: You become liable as...

MD: Yeah.

RT: ...Yolŋu citizen under the law.

MD: Yep.

RT: Yeah.

MD: Exactly, yo.

RT: If before that, you're in your parents hands.

MD: Yes, yes.

RT: They are really ym...

MD: Yeah, yeah.

RT: So before that, parents are legally responsible for you.

MD: Yo.

RT: After that you become ym... liable as a Yolŋu citizen under the law, yeah?

MD: Yo ym... when you grow up, between 14 to 16 years old, when you are having ym... invite ym... when they ym... university ym... platform ym... further educate ym... education ym...

RT: Yeah.

MD: This is where ym... ceremony ym...

RT: Hmm.

MD: ym... particularly ym... ceremony ym... assenting to the law ym...

RT: ym...

MD: Yo.

RT: So after, like circumcision for men.

MD: Yo.

RT: You start, that's 12, 13, 14 you start to get invited by the elders, they start to invite you to these other legal forums, we call them.

MD: Yo.

RT: Legal forums, hey?

MD: Yo, yo legal forums, yo.

RT: Forums where you can learn different levels of law, especially through the ym... ceremony which is the inside chamber of law.

MD: Yo.

RT: Where you can learn all sorts of stuff, but other ceremonies also like ym... and so on.

MD: Yo.

RT: Which teach you different, different levels of law.

MD: Yo.

RT: And respect and discipline.

MD: Yo.

RT: Of that mind, body and soul, yeah?

MD: Yeah.

RT: Yeah ym...

MD: ym...

RT: Yeah.

MD: ym...

RT: Yeah.

MD: ym...

RT: Yep.

MD: ym... disrespecting that ym... yo?

RT: So this is for the men, but the women have their same system, hey?

MD: Yo ym...

RT: Where they come under discipline of law, yeah?

MD: Yo I'm not going to talk about that ym...

RT: Yeah that's the women's business, you're only talking about the men's side, yep?

MD: Yo, yo.

RT: But they all come under that ym... or?

MD: Yo.

RT: ym...

MD: ym... yo.

RT: They become liable at law, under that system of law where you are disciplined. And the interesting thing about it ym... is you've got all these ym... you've got all these academic legal terms and yet the Australian Legal Fraternity, we call it Australian Legal Fraternity, the legal system, doesn't even know that here, in one of the original Australian languages... here in Yolngu Matha, we've got all these legal terms which people don't even realise. They're in Aboriginal language, hey, yeah we've got a lot of education to do ym... for Balanda, hey?

MD: Yeah ym...

RT: Yeah that's good what you're saying it's a two way, it's a two way education thing.

MD: Yo, yo.

RT: For them and for you.

MD: Yo.

RT: Because you want to know about...

MD: Yo.

RT: ...more about the Balanda side, the Balanda legal structure, the Balanda legal...

MD: Yo.

RT: ...rom ym... yeah?

MD: Yo.

RT: Yeah, how it works.

MD: Yo, because at the end of the day we don't want any anarchy, anarchists.

RT: There you go again, yeah straight away you say it.

MD: We don't want them.

RT: We don't want anarchy.

MD: Yo.

RT: And yet so many Balanda, you even get anarchist Balanda...

MD: Yo.

RT: ...think that Aboriginal culture is all about anarchy, they think Aboriginal culture is all about anarchy but it's not, it's the opposite, it's all about...

MD: Hmm.

RT: ym... discipline of mind, body and soul, it's all about rom ym... a legal structure, control structure to create ym... to create...

MD: ym...

RT: Yeah.

MD: Peace, order with all governance ym...

RT: To create the ym... peace, the big peace, the māgaya.

MD: Yo, yo.

RT: Which everybody, everybody, everybody wants.

MD: Yo.

RT: And we could get there if more people listen to these sorts of conversations ym...

MD: Yo.

RT: And we start to get the truth about Aboriginal culture, the truth about Yolngu culture rom.

MD: Yo.

RT: And we have to put, we say it in English, we have to put the ym... or the rom ym... back in the back, we've got to put them in the box.

MD: Yep, yeah.

RT: And return back to the ym... rom.

MD: Yo.

RT: Australian law.

MD: Yo.

RT: The original Australian law which is still represented in ym... Maḍayin system of law ym...

MD: Yo, yo ym...

RT: Yeah.

MD: ym... need consultation ym... to Yolngu ym... from the heart.

RT: When you say ym... Yolngu meet together face to face with Balanda, yeah?

MD: Yo, yo.

RT: Yeah and have a proper consultation, heart to heart, mind to mind, ym... yeah?

MD: Yo.

RT: Yeah let's hope that can happen ym...

MD: Yo.

RT: For the sake of the ym...

MD: Yo.

RT: So they can grow up in a place where they've got education and law and employment and everything, cause without a system of law ym... Maḡayin rom ym... you can't have ym... development ym...

MD: ym...

RT: Family ym... community...

MD: ym...

RT: ym... corporate clan groups, they can't grow, in a ym...

MD: ym...

RT: ym...

MD: Absolutely.

RT: Yeah.

MD: Absolutely yo ym... mägaya rom.

RT: Yeah.

MD: We go for that mägaya rom.

RT: ym... mägaya rom ym... yeah.

MD: Yo, yo.

RT: Thank you ym... this morning for this program.

MD: Yo ym...

RT: We'll come back another day, hey and...

MD: ym...

RT: ym... hey?

MD: ym...

RT: ym...

MD: ym...

RT: Yo, ym...

MD: ym...

RT: ym...