

Treaty Now

Kendall to Formally Introduce

My name is Kendall Trudgen. Yingiya and I am part of the Yolngu Nations Assembly organisation. Yingiya is part of the founding leadership of the group and is a Djawarrkmirr-spokesperson and political organiser. I am the secretary dealing with paperwork administration and facilitating engagement with non-indigenous powers, a broker of sorts. We are both volunteers in these roles.

A little bit about Yolngu Nations Assembly.... Yolngu Nations Assembly was founded in Galiwinku, in East Arnhem Land, NT, in 2011. It is developing in anticipation of a treaty with the Australian government. We hope it will be a body capable of taking the burden of post-modern self-governance. In the meantime it will grow as a Yolngu advocacy, unity and solidarity charity, formed around a representative council of tribal nations, and with a number of elected members from our affiliated Dhuni Forums.

This organisation follows the first incarnation of this movement by elders Batanga, Burrumarra and Walalipa in 1956/57. At that time they established a central government under the Maḍayin system of law. Unfortunately it was not to last under various internal and external political pressures.

The external pressure that has precipitated Yolngu Nations Assembly are the destructive forces brought on by the Intervention and Stronger Futures policies – policies that have only increased the tempo of colonial take over in Arnhem Land and made the plight of Arnhem Land people worse than ever.

This connection with Yolngu Nations Assembly is what brings us here before you today. Yingiya is here to do the work of Yolngu Nations Assembly in creating ‘treaty awareness’ and he is also here in his capacity as an independent candidate for the coming NT election, attempting to raise funds for his campaign. Yolngu Nations Assembly wholeheartedly endorses Yingiya’s candidacy and his fundraising activities because their goals are one in the same- treaty.

Yingiya Mark Guyula belongs to the Yolngu people of North East Arnhem Land.

His tribe is the Liya-dhalinymirr and he is part of the Djamparrpuyngu nation. He is a Djirrikaymirr-judge of Yolngu society and as I have mentioned he is a spokesperson of the Yolngu Nations Assembly.

Yingiya is an independent candidate for the seat of Nhulunbuy in the coming Northern Territory elections.

Yingiya Balyunmirr Ga

.... I think it is fair to say that first nations peoples of this continent seek recognition of our sovereignty...

... For ourselves, we Yolngu want a space of our own, so that we have the freedom and scope to live, think, and develop in a way that suits ourselves.

We want a jurisdiction that is without interference from colonial governments,... and we want the Australian Government to accept our Maḍayin system of law.

We have put this request on numerous occasions by statement and petition to the Australian government....

Our 1998 petition to Prime Minister John Howard read like this:

We request that [the Australian government]:

1. [recognise] the *Dhulmu-mulka Bathi* ([the] Title Deeds) which establish the legal tenure for each of our traditional clan estates. Your Westminster system calls this "Native Title".
2. [recognise] the jurisdiction of our *Därri'* /Traditional Parliament in the same way as we recognise your Parliament and Westminster system of Government.
3. [And] both formally and legally recognise our *Maḍayin* system of law.

Similar requests for rights to land ownership and our way of life, and self-governance, were also made in the 1963 bark petition,... the 1988 Barunga statement,... and the 2008 petition to Kevin Rudd...

Perhaps our peoples' most well known declaration for a treaty is the song by Yothu Yindi band called 'Treaty.'

Play section of song

The message is clear, but for non-indigenous Australia our continuing demand for a treaty often invokes blank faces, disbelief, confusion, or thought less rejection... or a bit of everything.

We face an extreme ignorance.

So for the doubters I want to be clear, we the Yolngu people have not been conquered:

- we won our war against pastoralists,....
- we still occupy our land,....
- we still have our own languages,...
- we still have our institutions and systems of education, health and justice,...
- we still maintain and assent to our own complete system of law- the Maḍayin system of law,....
- And we have not made any agreement to give our land away or to be subject to any other law....

...That means we still have nationhood and we view ourselves as independent.

On this basis our treaty would mean the declaration of Arnhem Land as a new state within the federation of Australia, ... and under the jurisdiction of the Maḍayin system of law. This is possible without constitutional change because we currently live within the Northern Territory.... We in Arnhem Land are in something of a unique position.

Our legal advice about our pursuit of a treaty is that:

“Such recognition would be consistent with the principles of Mabo's case. The details of interlocking with Australian law and international human rights law need to be negotiated, but this does not prevent the acceptance in principle of the concept of recognition of Madayin law.”

Slide: Gunupipi – We do our own justice

... There is no moral reason, or argument by natural justice, that can deny us.

This is why some of the ‘colonial mind’ are trying to slander our law:

- they are telling people our institutions encourage oppression of women,...
- they are making out that our families neglect children because that is our culture,...
- And they are generally portraying our society as ‘primitive and uncivilised’- *wakiṇu*,...

They are trying to create a moral argument to take over and control.

Slide- Djamarrkuli, miyalk and Dhirramu

The Madayin system of law is a ‘*rule of the law*’ not a ‘*rule of man*’. Meaning it is not arbitrary, impulsive or decided by dream or desire....

Rather...

- ‘decision’ requires passage through proper democratic processes- *garma*, *dhuni*, *ṇarra*,...
- Ad with the participation of authoritative institutions and delegated leadership, ...
- ‘decision’ requires testing against *ṇurrṅitj*-tradition, our *raypirri*-code, *djalkirri*-lore (l-o-r-e) and our articles of law.

It was this system of law (l-a-w) that made Judge Blackburn in the *Milirrpum vs Nabalco* case says:

“If ever a system could be called “a government of laws, and not of men, it is that shown in the evidence before me.”

.... Our Madayin law is defined by a social contract between citizens and land – *rom wataṇu ga munatha*... Our Madayin law is designed by the Mimay (unseen) Creator, and it was passed to our people by the ancestors *Djaṇ’kawu* and *Barama/Lany’tjun*.

Djaṇ’kawu and *Barama/ Lany’tjun* are the founders of the *Dhuwa* and *Yirritja* pillars of our way, and they are the founders of the *ṇarra’* institution that governs our nation...

Nj̄arra' is important to understand.... It is our institution of nationhood... It is not just a religious ceremony like some anthropologists say... Nj̄arra' is the central institution of our entire democratic political system. It is our equivalent of a parliament...

Slide: Nj̄arra'

... It is through this Maḍayin law that my people have maintained peace, justice and harmony in Arnhem Land for 40,000 years or more. We have always determined our own future and welcomed those who respect our customs and traditions, lore and law.

Macassans

When the Maccassans of Sulawesi first landed on the north coast of Australia they acknowledged that there were people already in this land.

The Maccassans realised that our people were organised and civilized, and that they lived by a system of law, the Maḍayin system of law. This is why the Macassans negotiated with our people for the right to fish certain waters for trepang.

In trade for this fishery agreement, payments of cloth, tobacco, metal axes and knives, rice and gin were made....

We Yolḷu of Arnhem Land also traded turtle-shell, pearls and cypress pine... and some of our people were employed as trepangers.

The relationship between the Maccassans and Yolngu tribes became so intertwined that Maccassan culture became included in some of our songlines and lore.... Songlines of ḡarili-tobacco and ḡanitji-alcohol,... stories like the great-whale hunter Wuymu Wurramalla,... and culture like the use of flags.

We had a true international treaty with the Maccassans of Sulawesi. They engaged us with respect and honour and they became our kin.

From 1906 onward the Maccassan trade was ended with blockade by the South Australian colonial government.....

And after the pastoralist invasions to the south of our borders, this was the final colonial act that destroyed our national economy.

English Settlers

When the first fleets of English sailors landed in the southern ports of Australia they planted the Union Jack and declared this continent for the commonwealth..... -This is despite the soil already being bound in a social contract with our people, by the ancestors Djaḡ'kawu and Barama/Lanytjun.

Slide: Djaḡ'kawu

The convict prisoners that came with the sailors were set free and migrants arrived in waves. They started to spread out further and further from their colonies seeking economic opportunity...

These economic migrants wanted to exploit the land and sea, but unlike the Maccassans, when the settlers saw Indigenous people living on this country they made no agreement.....

Instead, under the protection of their government (and regularly enough with their assistance), they started killing us.....

Many of those of us that survived the killings were made prisoners, and treated in the manner the settlers were treated when they were convicts.... – we were humiliated, chained, shackled, imprisoned, our movements were restricted, and our people were exiled from our homelands.

The pattern was always the same:

- Government established colonies,
- settlers from the colonies expanded their territory seeking economic gain,....
- and then the government would legitimise the killing and take over by sending police to back up the settlers.

In 2007 the same Westminster system of law, through the Australian Government, declared The Northern Territory Emergency response.... And at the head of this policy were the police and army.

It seems that the settlers were not happy with their take-over of the South... they wanted to finish the job in the North.

The Intervention, and the Stronger Futures policy that followed it, has meant the undermining of Yolngu autonomy and sovereignty....

As a normal part of life my people are now subject to

- blanket welfare quarantining
- the threat of fines and further welfare cuts for not attending school
- the abuse of our children's minds in 'English Only' and Direct Instruction – schools are making our children dumber not smarter.
- the threat of arbitrary acquisition of our community assets by government
- work for the dole branded Remote Jobs and Community Program
- the demand for leases in exchange for housing and basic infrastructure,
- the rejection of Aboriginal customary law in court judgments of criminality
- the criminalisation of kava use
- the unregulated movement of strangers in our communities – the permit system that was once required to enter our land was removed.

we are now also subject to

- continuous police intimidation with lower resourcing of legal aid
- the threat of a 99 year lease over our community or a new compulsory acquisition of land
- the slander of our culture

- and we are daily subject to permission by mainstream culture for outsiders to assume superiority

The Intervention also saw a temporary investment in housing, although homeland housing was defunded and some communities ended with less total rooms than they began with. Our housing assets were also taken from us by government and are now controlled by government housing organisations.

Unbeknown to most, the Intervention also coincided with a raft of NT government actions:

- the stealing of assets away from community-controlled associations to create new regional councils,....
- the destruction of bilingual or 'two-way' education policies for 'English Only policies'... (and now Direct Instruction),....
- And the 'Growth Towns' policy which diverted almost all funding from homelands.

And now, the NT government has released the Wilson education review, calling for the closure of all remote high schools, forcing our young people into towns from 11 or 12 years old.

The result is that today our Maḍayin law and governance, which was handed to us by Djaṅ'kawu and Barama/Lany'tjun is being pushed aside.

The result is that our leaders, the lawmen and lawwomen,... the Djirrikaymirr, the Daḷkarramirr and the Goṅ-gaṅmirr are being disempowered... We are being left to become dependent and weak, forced to accept the priorities of outsiders....

And where does this lead our young?... The young are tempted to become like balanda (becoming without souls) or just fall away under the strain....

Since the Intervention we have experienced the highest rates of imprisonment and suicide ever!

We did not agree to these laws and they have made everything worse.

- Our people are locked up at a rate of 6x that of black men under apartheid South Africa
- The youth detention centre in Darwin is 98% Indigenous
- Domestic and family violence has increased
- Suicide and self harm have increased
- Child malnutrition has increased
- And child removals are again destroying our communities

The rate of child removal is higher than at the time in history. Higher than in the time that we called "the stolen generation".

We actually have no choice. It is self-determination and self-governance.... Or it is impoverishment, exile, chains and death... - the life of convicts.

The process of colonisation must be halted.

Slide: Waṅa-Lupthun Assent ceremony

The Treaty, we are seeking and pursuing are not promises, like Bob Hawke in 1988. It is not those “we are sorry” words from Kevin Rudd. It is not even law like the Land Rights act that just hands power to a middle-man.

What we want and need is legal rights that protect our language, law and land... That if broken can be challenged in court....

And we must go beyond that. For us in Arnhem Land that means recognition of our Maḏayin system of law and a state within the federation... No less will work.

This is why I am standing up, this is why I’m calling for a treaty....

Yolngu people want a treaty, but we can’t get this alone.
We need to stand together.

This is why I wish to join a campaign, based around the idea that we should have a say over our own community, our own land, our own lives. I want to unite a campaign in the NT and around the country demanding our power back.

Please help us in doing this.