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**MÄGAYAMIRR – A FOUNDATIONAL PRINCIPLE OF THE YOLŪU LEGAL AND GOVERNMENTAL SYSTEMS**

MÄGAYAMIRR

**Mägayamirr** is the name given to one of the qualities of the **YolŪu** system of Government that exists in Central to North East Arnhem Land. The **YolŪu** (Aboriginal people of this area) refer to their legal and governmental structure as creating **mägayamirr**. **Mägaya** has been literally translated as "peace, no trouble, cessation of hostilities"<sup>1</sup> whilst **mirr** is a suffix which denotes the possessive. So **mägayamirr** means to be with peace, having no trouble, to have a cessation of hostilities. "**Mägayamirr** is like when you walk into a yard where there is no breeze. Everything is still and quiet, with not a leaf or anything moving. Everything is very still and tranquil." - Rev Dr Djiniyini Gondarra.

"**Mägayamirr ŋayi ga ŋorra dhukarrŋur romdja**.'" translates literally as 'peace and tranquillity lies on the structure (way) of the law'. **Mägayamirr** parallels an underlying principle of the Australian system of government, based on that of the Westminster system of government. Section 51 of the Australian Constitution states that the parliament shall - "have power to make laws for the *peace, order and good government* of the Commonwealth." (Emphasis added)

**Mägayamirr** is a quality that allows for good government within a civilised code, accepted by the citizens. The people see themselves as the **rom wataŋu walal**' (owners of the law). They are at one with the law and know it protects them and gives them responsibilities as citizens.

The following paragraphs attempt to start to explain the basic structure of **YolŪu** law that create this state of **mägaya**. Much of this material has been collected during what is still the early stages of research and therefore the following should not be taken as an exhaustive commentary on this subject. Indeed, it is only the beginning of what needs to be said to explain the whole system more fully.

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<sup>1</sup> 'Temporary Gupapuyŋu Dictionary' compiled largely from notes of Beulah Lowe made in the mid-1960's.

## RULES AND STRUCTURE OF GOOD GOVERNMENT

In the Westminster system of government, the rules as to how government will operate are laid down and fixed. Two examples of this are the rules of debate and the separation of powers. It is similar in Yolŋu law. Although some of the rules and procedures are very different between the systems, there are nevertheless points of similarity. One of the main differences is as follows:

### OF ONE MIND

In reaching decisions or making new law, the **rom djägamirr** (law keepers who are the selected representatives), must become **ŋayaŋu wanganydhirr'** (that is, all persons must become one with the others in mind, body and spirit). There is no notion of taking a vote on a 'bill' or a 'motion'. Instead, the issue is raised by a principal person in the meeting and then all are allowed to discuss the matter until there is a consensus, a meeting of minds and spirits. This may take days, months, or even years. The important thing is that no one person is forced to go along with others and the decision never comes down to just a majority vote.

Some of the similarities between the two systems on the other hand, are as follows:

### DIVISION OF POWERS

1. In both systems, there is a clear division between what is known as the three levels of government - the Legislature, the Executive and the Judiciary. The legislative and the executive powers are divided in a general sense into what is known as the '**yothu-yindi'** (the same name as adopted by the famous Yolŋu rock band). The '**yothu'** literally means the child, but in this context is used in a wider sense, and refers to the children of the mother's people (clan). These children are responsible to carry out the executive role of government for their mother's clan. These children call their mother's clan line their '**yindipulu'**.

The word '**yindi'** literally means 'big', however, again it is used in a wider sense. It refers to the **yothu's** mother's people (clan) together with the **yothu's** mother's people and so on. The clan that is the **yindi** side of the equation, have their own constitutional law (as represented by their **Dhulmu-mulka Bathi** – sacred Dilly Bags) which gives them the right to own land and sea, together with all the resources therein. The **Dhulmu-mulka Bathi** sets out the same types of rights and responsibilities as contained in a government constitution. However, the **Dhulmu-mulka Bathi** is a restricted instrument of law in Yolŋu government which is only truly understood by fully educated people. Each '**bäpurru'** (clan) has their own constitutional authority and can determine and put laws in place (**rom nhirpan**) and empower that law to achieve good government of their **bäpurru**.

The **yothu** carry out the same sorts of functions for their **yindipulu** as does the executive arm of the **Balanda** government in the Westminster system. This power of the **yothu** is carried to the point that they will even prosecute a member of the **yindipulu** for violation of the **yindipulu** law. In addition to carrying out the executive role of government for the mother's people, the **yothu** also carry out the function of managing the resources of the **yindipulu's** estate.

## CHAMBER OF LAW

2. Another similarity between the systems is that law can only be created in a proper chamber of law and operate through councils, as determined by particular constitutional objects of law. In the **Yolŋu** system, a chamber of law must be created according to strict legal dictates. Law can only be **rom nhirpan** (put down/enacted and empowered) by the consensus of those in power inside this place. The chamber is then normalized at the end of the proceedings and the law that was put down inside that chamber is then binding on all the people. A similar event occurs in the Australian parliament with the empowering of the Houses of Parliament. Just as the mace together with particular ceremonial procedures are used to create a chamber of law in the wider Australian system, similarly symbols of law and particular ceremonial procedures are used in the **Yolŋu** system to create a chamber of law.

These structures of traditional **Yolŋu** law and government create a state of **mägaya** where **Yolŋu** citizens can live in the knowledge that there is a fair and just system that is above the whims and wants of human desires. It is a system that they and their ancestors have lived under for thousands of years.

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