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IT'S NOT A 'CURSE', BUT A PROCLAMATION

The word 'cursing' is an incorrect and inappropriate word that is being used by both **Balanda** (non-Aboriginal) and **Yolŋu** (Aboriginal people from North East Arnhem Land) to describe the temporary closing down of stores and other public facilities in some Arnhem Land communities. A number of **Yolŋu** leaders have expressed concerns about negative comments that have been made in relation to the actual words that are pronounced on such occasions. Other **Yolŋu** leaders are equally concerned about the negative connotations implied by the **Balanda** word '*curse*', which become attached to the **Yolŋu** words or names which are called.

A PROCLAMATION – NOT SORCERY

'*Cursing*' is not an act of sorcery (**galkapuy djäma**¹) and therefore it is not a curse, hex, or spell of any kind. It is the act of placing a 'restriction' over a place, food or thing (in this case the store, office etc.) by the proclamation of the name of a clan or of a personal totem. The proclamation is akin to the placing of a seal of ownership, and therefore allows only the adult owners of that name to have free access within that restriction or proclaimed area, or to that 'proclaimed thing'.

To understand this as a process of law, we need to look at similar legal processes within the Balanda system. Examples of this may be seen in processes such as:

a court placing a 'garnishee' on a person's wages until the debt has been repaid;

the declaring of particular imported substances that are harmful as 'contraband';

¹ See ARDS, *Information Paper No. 4*, 8 1993

the restricting of access to particular areas by an act of parliament (e.g. a military area) or to particular locations (e.g. a restraining order in the case of domestic violence);

the proclaiming of areas for a particular function or use which is either permanent (as for Parliament or the High Court) or temporary (e.g. for a parliamentary hearing or a court hearing), as in the opening of a House of Parliament or a Court of Law, the proclamation demands that a certain protocol be observed.

BUNDURR: A TOTEMIC NAME WITH A LAWFUL PURPOSE

Each clan (**bäpurru**) possesses a group of names (called **bundurr**) that can institute legal proceedings of various kinds. These **bundurr** name the instruments of law (**madayin**) that give political and economic rights to every citizen of that clan.

Some of these names are 'big' or 'inside' names and are only known by those adult males who are fully versed in the law of that clan or group. They should only be used to instigate proceedings for the opening of a court of law or chamber of parliament. There are also other 'inside' and 'outside' names that are more widely known, but there are still restrictions on their use. The utilisation of any of these names demands that a correct protocol or legal response be enacted.

Every male person is given one or several **bundurr** which they inherit from their **märi** (mother's, mother's brother). A **Yolŋu** man will have 3 different levels of **bundurr**, one that belongs to his clan, one that belongs to the subgroups within that clan, and at least one personal **bundurr** as above.

It is these **bundurr** that are being abused in the so-called 'cursing' of stores. In normal circumstances these names can be used by their owners in very important traditional councils, where the teaching of law, the resolution of disputes and the creation of new law is carried out.

An example of the rightful use of **bundurr** to bring a matter before the law can be seen in the following illustration. An elderly woman was not being looked after by her relations. Each day her young relatives would go fishing and return with a large catch which they used to feed the family group, however they did not share the catch with this elderly woman. She wanted justice, so she brought the matter before the law by 'proclaiming a name' (**guykthun bundurr**) over the boat and catch. This meant that neither the boat nor the catch could be touched

until the basis of her grievance had been discussed and resolved by the owners of that **bundurr** and the proclamation over the boat and catch dispensed with. Whilst the proclamation was in force it was as if the boat and catch were exhibits in a court case. In addition, they functioned as symbols of the law at work, and so they were part of legal proceedings until judgement was passed and the situation normalised, after which they resumed their normal everyday function.

For **bundurr** to be used in a public situation for personal gain, or as a response in anger (by either an owner or a non-owner), is a complete abuse of their proper use. Traditionally the penalty for this would involve spearing and sometimes death, however the power of the spear has been taken from the keepers of law in **Yolngu** society². This has led to some young people, motivated by rebellion and/or greed to carry out these unlawful acts. These days they can't be 'jailed' by use of the spear, and no other alternative punishment or sanction has evolved which the law-keepers can use, and so there is 'no fear' of abusing this law. In other words, it has been contemporary Australian law which has usurped **Yolngu** law and this has led to this abuse of **bundurr** in contemporary **Yolngu** society. The lack of recognition afforded by **Balanda** law to these 'unlawful acts', and its inability to respond in an appropriate way, has escalated the 'law and order crisis' that exists in **Yolngu** communities.

THE ABUSE OF **BUNDURR**

When a drinker in Darwin rings to their community or family, asking for additional money and their request is not agreed to, then this person may start to think of ways that he/she can put pressure on the community or on their own family. In putting this pressure on the community or family, the drinker will sometimes ring the local store saying '**Narra dhu guykthun bundurr storelil**' (I will proclaim **bundurr**, over the store.) If the **bundurr** is then named, a restriction is placed on that place or facility. When this happens, then everybody must respect that proclamation. That area is now sacred, set apart as in an act of law.

Djiniyini Gondarra describes it this way. "It is like when my **bundurr** is proclaimed over something like a store, that store now becomes the same as that **närra**' (a ceremonial chamber of law). I don't look at the inside of that store as a store, but as that place of important ceremonial law. Even though I can see the food on the shelves it is no longer just food on the shelf, but the food now

² See ARDS Inc. *Submission to the Law Reform Committee - Alternative Dispute Resolution in Aboriginal Communities*, 29th March, 1993.

represents the important **madayin**, symbols of law and order. That place must be treated like that until it is returned to its normal function."

So out of respect to the owner of the **bundurr**, as well as their fear or concern for the consequences of breaking **Yolju** law, the workers and customers will no longer use that store until the owners (**bundurr wataju**) come in and enact a **dada'yun** (normalisation) ceremony. When this ceremony is carried out then things are returned to their normal function, so that the normal rights of citizens are restored.

The inappropriate use of these proclamations causes many problems for **Yolju** communities. Firstly, it allows the lawless element within the community to force the law-abiding sections of the community to hand over large sums of money. This leaves their law-abiding family members feeling helpless and powerless, because they no longer have appropriate sanctions that they can use to punish and correct their lawless kin.

Secondly, it is these law-abiding family members who have to spend many hours in ceremony to normalise the situation - again a cost borne by them.

Thirdly, because contemporary Australian law has not come to grips with this situation, it is leaving a whole group of vulnerable people in **Yolju** society without the protection of law. This is leading to old people being abused and not cared for by their family members. Older people feel now they cannot use these proclamations at law because the **Balanda** see them as evil, a 'curse', and their lawful use is being associated with their lawless use. So lawful citizens seeking justice are being tarred with the same brush as the lawless rebels. That is why the proclamation of these **bundurr** needs to be seen in its true legal role. To illustrate the point, just suppose that tomorrow in contemporary Australian society we were told that we could no longer seek the protection at law that the courts afford us. It would not be long before Australian society would start to break down. We would start to face a state of anarchy. This is what we are doing to **Yolju** communities by not understanding and recognising these proclamations.

The other thing this says to **Yolju** communities is that **Balanda** have no procedures at law where people can seek justice for injustices done against them, because the instruments that the people use are seen by **Balanda** as a curse or some kind of evil. This provides further evidence for **Yolju** concerning their belief, that **Balanda** have no civilised systems of law.

THE SHAME INVOLVED IN CALLING IT A 'CURSE'

Finally, there is great shame associated with calling these **bundurr**, and the restriction proclaimed, a 'curse'; because these can also be the **bundurr** of very respected or deceased elders. It is akin to "digging up and trampling the bones of your grandparents", or of using some highly respected person's surname, insinuating it is evil because it was the instrument used to create a 'curse'. The two just do not go together, and so when some Yolŋu, who know the true meaning of the term 'curse', hear it being used in association with their big clan name or the **bundurr** of a deceased father or grandfather, then there is a lot of shame and anger involved. The name of their father or grandfather is not an evil thing and therefore should not be associated with anything evil. It is even more insulting to refer to it as a curse, because that insinuates that the **bundurr wataŋu** (person of that name) is a lawless person, a **galka**³ (sorcerer). Therefore, calling these proclamations 'curses', is an absolute insult.

Note: In this paper we attempt to give some insight into what the Balanda world has wrongly named 'cursing'. This is only a glimpse of what is contained within the meaning of the term 'guykthun', - it is profound, and this paper should not be seen as a definitive description of guykthun.

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³ See ARDS Inc. *Information Paper No. 4*, 8 1993.