# “Nation” v. “Rom”: Yolŋu articulations of communal identity in 2021

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The rise of the term “First Nations” as a replacement for “Indigenous Australians” (which in turn replaced the more cumbersome “Aborigines and Torres Strait Islanders”), has coincided with growing calls for a treaty or series of treaties with the settler Australian state, in recognition of never-ceded sovereignty.[[1]](#footnote-1) Communal identities such the “Wiradjuri Nation” are now constantly invoked, and indeed confederations of “nations” such as the Murray Lower Darling Rivers Indigenous Nations (MILDRIN) are becoming increasingly salient players at the interface between communal Indigenous interests and the institutions of the settler state, at least in the more heavily “settled” parts of the continent such as new South Wales and Victoria.

From an anthropological perspective, the “nation” as a form of sociopolitical organisation did not exist in precolonial Australia. Until the advent of native title, Indigenous Australian polities had not found it necessary to draw boundaries around their member “citizens”; but this is precisely what the *Native Title Act* (1993) demands of them. In order to set up a Prescribed Body Corporate to administer a native title determination, it is necessary to draw up a defined and finite list of members and by extension to exclude other, non-members. This has become a significant source of tension and intra-community disputation, particularly in areas of Australia where the events and effects of colonisation (massacre, dispossession and disease, and in some areas, as a result, the demographic collapse of local populations) have forced radical adaptations of “classical” forms of social organisation to fit the surviving descendants’ new circumstances. In some cases the term nation seems to inhere in postcolonial institutions such as Prescribed Bodies Corporate. At least one of these organisations (in Queensland) describes its activities as “nation building”.

The question of how to define a nation’s boundaries today is a matter for debate. Part of the problem is one of scale. Different solutions to this conundrum are being advanced in different parts of Australia: in New South Wales, entities such as the Wiradjuri Nation are defined with respect to language boundaries; in Victoria, however, the push seems to be towards using the term as an alternative to “clan” for the much smaller, original land-holding social units.

The Yolŋu-matha-speaking peoples, who live in Arnhem Land in the Northern Territory in “very remote” Australia, and who remained effectively beyond the colonial frontier until the 1920s, have not used the term “nation” until very recently in reference to their own polities, although they have a long tradition of making analogies between certain of their institutions and those of the incomers. Examples are the use of “Parliament” to refer to the Ŋärra ­– a regional ceremony in which, among other things, senior male clan leaders sit together on a restricted ceremony ground to discuss regional affairs – and the use of “embassy” to translate *riŋgitj* – a small discrete area near a major ceremony ground which belongs permanently to a clan which is connected to the area by ceremony, the members of which will regularly attend regional ceremonies there, but who are not themselves the land-holders. They also have a long and distinguished tradition of fighting for their rights and those of other Indigenous peoples, beginning with the Gove Land Rights case of 1971 (*Milirrpum vs Nabalco and the Commonwealth of Australia*)in which the clans of the Gove peninsula and their allies attempted, unsuccessfully, to halt the incursion of mining onto Yolŋu Country. That case was one of the contributing factors to the passing of the *Aboriginal Land Rights (Northern Territory) Act* (ALRA) in 1976. Some decades later the Yolŋu of the Blue Mud Bay region to the south of Yirrkala were involved in a landmark case run simultaneously under the ALRA and the *Native Title Act 1993* (NTA) in which the final resolution, in 2007 in the High Court of Australia, confirmed that Indigenous Australians had the right to control access to the intertidal waters over 80% plus of the Northern Territory coastline (see Morphy 2009). In all these fights for rights, the question of “nationhood” was not raised.

Within the last decade, however, the “nation” trope has begun to figure in local discourse. In some parts of north east Arnhem Land the term “clan-nation” is gaining some currency as a translation of *bäpurru* – the land holding patrilineal clan group of Yolŋu society. In 2008, in conjunction with Noel Pearson’s “Empowered Communities” initiative, a “Dilak [Elders] Authority” purporting to represent the “13 clan nations” of the eastern (Miwatj) subregion was established. A list of the “Dilak” is not published, and the designated “leader” of the Arnhem Land group (presumably the Executive Officer) is a non-local, non-Yolŋu Indigenous person. The information about the constituency of the organisation on the Empowered Communities website is vague and inconsistent. Figures of the number of people represented vary between 800 (the size of the largest local Yolŋu community), to the 13 aforementioned clan nations (population unspecified, but somewhere around 300 people), to 12,000 (the total population of the Yolŋu speaking region, and then some more). In a section of the web site that appears to have been authored by Galarrwuy Yunupiŋu, through whom Noel Pearson was first introduced to eastern Arnhem Land, the following appears:

The Dilak Authority (comprising our 13 Yolngu clan nations) has long operated as our system of governance, but is not recognised outside our traditional world. In order to achieve effective Indigenous policy reform, government must hear that Yolngu people are requesting responsibility to determine our own future.

It appears then that the Dilak Authority is an attempt to create an interface between the settler state and the “Yolŋu system of governance”, conceived in terms of “clan nations”.

In about 2013, a charity, in the form of an Aboriginal Corporation with the title “Yolŋu Nations Assembly” (YNA) was registered. Its web site offers no definition of “nation”, but it can probably be assumed that the patrilineal clan-nation is what is in mind. Whether the organisation is in any way “representative” of the 60+ clans of the Yolŋu region is also unspecified; there is no detail given on the organisation’s website as to how the nine Yolŋu listed as “responsible people” were chosen, or what their roles are. The stated aim of the YNA is to promote and facilitate “engagement between the Arnhem Land Indigenous form of ‘customary’ government and the Australian Westminster form of government” (Yolŋu Nations Assembly 2021: unpaginated).

The formation of both the Dilak Authority and the YNA clearly reflect self-conscious strategising (on the part of at least some Yolŋu and their supporters) to create communal political identities that are legible to particular (external) interlocutors, while attempting to retain and represent certain underspecified principles of local governance. Indeed there is a history in the region of Yolŋu people – or components of the Yolŋu population – attempting to set up regional organisations, for example there was an unsuccessful attempt some decades ago to split from the Darwin-based Northern Land Council to form a breakaway East Arnhem Land Council.

While the Dilak Authority and the YNA might be seen as attempted expressions of a Yolŋu political identity in the context of articulation with the institutions of the encapsulating settler state, such organisations are not – or not yet – articulations of a pan-Yolŋu sense of communal identity. The crucial marker of communal identity for Yolŋu – what makes them Yolŋu rather than some other kind of persons, be they Indigenous or non-Indigenous – is *nhina yukurra rommirri* ‘living with *rom*’ or *nhina yukurra romŋura* ‘living in *rom*’. Often translated as ‘Law’ (as is the case with similar concepts all over Australia), *rom* at its most abstract is a complex, all-encompassing and powerful ontological schema – a particular way of seeing the world and being in it. It is a world that was given shape by the actions of Country-transforming beings of the time/dimension known as Waŋarr, who also gave shape through *rom* to the social world of the first human inhabitants and charged them with the responsibility for living according to *rom* and being the “voice (*rirrakay*) of Country”.

*Rom*, as foundational to the creation of the Yolŋu physical and social world, is impervious to the political power imbalances introduced by colonisation. *Rom* is an eternal truth in the sense that it will always exist in Country, whether or not the people who are the *rirrakay* are there to give it voice. I have written about how Yolŋu inserted performances of *rom* into the native title process in the Blue Mud Bay case (Morphy 2009). One of the Yolŋu witnesses went so far as to insist on the incommensurability of *rom* and what he and most Yolŋu think of as “Ŋäpaki law” – that is the law introduced as part of the “Australian Westminster form of government”. The conclusion to that paper summarises the centrality of *rom* to the Yolŋu sense of identity (Morphy 2009: 118):

Through resisting commensurability in the court, they have been able … to hold firmly to their “two worlds” model, in which the state’s particular objectification of “their” native title is … essentially irrelevant to rom and the social field that is founded in it … their sense of sovereignty as people would only collapse, in their view, if they were to abandon rom for a more generic state of colonized Aboriginality.

 That is to say, as long as Yolŋu continue to *nhina yukurra rommirri* their identity is secure, and they may be politically encapsulated but they are still sovereign, not colonised.

It might be helpful the think of both *rom* and nation in terms of Anderson’s (1983) “imagined communities” in order to compare and contrast them. Nations as they have evolved in the context of the nation-state (of which Australia is an example) are physical-social spaces imagined and then constituted in terms of exclusionary binaries (“citizens” versus “non-citizens”), bounded territories, and unitary systems of law. Boundaries – even including those of territorial waters, can be represented by lines on maps. R*om* imagines the nexus between the physical and the social very differently. The Yolŋu put it like this, to quote another witness in the Blue Mud Bay case (Morphy 2009: 115):

Your [ŋäpaki] world is changing every day, or every month, or every year. My law and my story, it can’t change.

*Rom* is imagined as permanent and unchanging, but also as flexible and resilient – individuals may stray from the patterns established by *rom*, but those patterns will always reassert themselves, and “the centre holds”. Yolŋu over three generations now have said to me in various ways (the last just a week ago in the course of a Zoom meeting): “we always go back to the past to fix tomorrow.” *Rom* is also imagined as inherently inclusive – as a balancing of difference – rather than exclusionary. This balancing of difference is reified in the existence of the moiety system – really the only rigid, but nevertheless internal, boundary in the Yolŋu universe. Everything in the entire universe – people, other living beings and natural phenomena (such as what we call “weather”) and Country – belongs either to Dhuwa or to Yirritja. But neither can exist without the other: in the realm of humans a person can only marry someone from the opposite moiety. *Rom* when translated as “Law” is not the law of a bounded nation but rather of people who share a sense of spiritual identity, who are always looking to come together through what they have in common.

Neither the social groups constituted through *rom*, nor the physical spaces to which they are attached, are rigidly bounded.[[2]](#footnote-2) It is true that being a *wäŋa wataŋu* (“Country-holder”) is an inheritance that comes through the patriline, but responsibility for ensuring that *wäŋa wataŋu* fulfil their responsibilities to their Country is vested in the *djuŋgayi*, members of the opposite moiety – the children of the women of the clan. And people of other clans, of both moieties, will have “standing permission” to move over and use the resources of that clan’s estate because of extended kin relationships. And there are various ways in which someone who is not a clan member can nevertheless have rights and responsibilities to Country that are analogous to those of *wäŋa wataŋu.* A person’s conception spirit usually comes from their own clan Country, but occasionally it comes from that of another clan. A person in this position is *weka-X* (“gifted by clan X”) and is viewed as a member of both clans. Adoption is another way in which a person can come to have more that one identity – or in the case of non-Yolŋu who become significantly part of the social field it is constitutive of their identity. Finally, in cases of succession where a clan becomes depleted in numbers of senior people, the senior members of one or more closely related clans of the same moiety (related either through the marriage bestowal system and/or connected by the travels of the Waŋarr) will take responsibility for that clan’s *rom* until it can be passed on to the next generation. Should the clan become extinct, there is a process of succession – sometimes prolonged – by which one of those clans or a section of one will “become” the former clan and assume responsibility for its estates.

In conclusion I will briefly consider an existential threat to the integrity and power of *rom* as an articulation of Yolŋu communal identity. It is posed, indirectly, by the political rhetoric at the national level surrounding “First Nations” and their relationship to the settler state. In continuing to assert their sense of sovereignty under *rom* in face of encapsulation within a settler nation, Yolŋu are faced with an unenviable paradox. Because it would seem from the current rhetoric that nations can only make treaties with other nations. The nation as a bounded political entity is not, and never has been, a Yolŋu way of being in the world, and we saw at the beginning of this paper that the creation of some form of “nation-like” regional polity is not as yet fully “imaginable”. Is it possible to simultaneously sustain two very different signifiers of communal identity, one of which might be effective for looking outwards politically, but which entails an enforced commensurability with the encapsulating other? Would living with *rom* be compromised in the process? Or can the two co-exist, as outward- versus inward-facing articulations of identity? Can Yolŋu retain their sense of themselves as encapsulated but not colonised?

The answer to these questions lies in a sidestepping this apparent conundrum of commensurability. We have seen that in institutions like the Dilak Authrority and the YNA the intention is to provide a “carapace”, by which “traditional” institutions of Yolŋu governance (possibly reimagined as “nations” to make them appear legible) are given an administrative interface through which to interact with the settler state. There is another solution, which is to give space and encouragement to Yolŋu re-imaginings and re-purposings of their own regional systems of governance. In this, the clans of Blue Mud Bay, who came together in solidarity to run the Blue Mud Bay case are taking a lead today. The clans of this region are linked together in a named, regional system – a connubium – through patterns of intermarriage over many generations (Morphy and Morphy 2019). They are the Djalkiripuyŋu (“the footprint people”, referring to the footprints of the generations in the mud of the Bay). This is a regional social universe based in *rom*, and extended kin networks, and formerly engaged, in the days of the hunting and gathering economy, in joint economic activities over the whole range of the combined clan estates. Nevertheless is not firmly bounded – some links of kinship connect it in all directions to other surrounding connubia. So in many respects it is very un-nationlike, and the term “nation” has never been attached to it. Nor should it be. The connubium is a particularly Yolŋu form of regional organisation that could be recognised, in its own terms, as a potential treaty partner by the state. There is no need to call it a nation, nor to demand that it become more “nation-like”.

### References

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1. The idea that Indigenous polities might be characterised as “nations” has been around for some time in the academic literature, but it has only come to prominence in public discourse and in Indigenous self-representation in the last decade or so. [↑](#footnote-ref-1)
2. There is no space here to detail they ways in which this is true as far as the physical universe is concerned. [↑](#footnote-ref-2)