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**THE CUNNING OF RECOGNITION**

Indigenous Alterities and the Making  
of Australian Multiculturalism

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**TO CLAIRE AND ERIC KREBS WHO CHANGED OUR MINDS**

*The people themselves believe that they are descendants of certain great spirit ancestors whose names and deeds are well known; they arrived at identified places and they moved about the land doing various things at various places. Whether or not they were the creators of the physical world, they were certainly the ordainers of the system of life which the Aboriginals accept.*

— *Milirrpum v. Nabalco Pty Ltd.*

## **5 / The Poetics of Ghosts: Social Reproduction in the Archive of the Nation**

### **DEATH RITE FOR MABALAN**

In this chapter I describe the attempt of a group of Aboriginal women and myself to translate an audio tape of a death rite held in 1948 in order to examine how indigenous members of the Belyuen community experience, grapple with, and try to produce a legally and morally felicitous form of locality. This production often means they must articulate local social processes, which they themselves at times contest, with the federal law of land rights and cultural difference. In other words, I try to show how these women, and other Belyuen women and men, make their community a socially viable place as they engage the legal and social forms within which they live, along with the

archived memorial forms of their own histories, the national and transnational circulations of these forms, and their own ambivalences toward the traditions held in the historical archive.

Insofar as they demonstrate these issues, this chapter and the next return to the central themes explored in chapters 2 and 3 but from an ethnographic perspective; that is, the disciplinary nature of the archive in the context of liberal discourses of difference and morality. How do Belyuen persons at once orient their discursive, emotional, and corporeal natures toward the state's definition of the traditional Aboriginal person at the same time that they ghost this being for the state and sustain their own social imaginaries? In this chapter, I concentrate in particular on liberal approaches to sexuality and social organization because of the central role they play in land claim and native title deliberations. To this end, I first examine in some detail two Belyuen modes of territorialization, the descent and ascent of physical substances through everyday and ritual practices. I then embed these local processes in larger-scale processes of cultural and legal recognition, specifically, how the law of recognition continually refers to local bodily practices as (and converts them into) instances of heterosexual (human) and nonheterosexual (spiritual) forms of community-building.

At this point I should briefly say how I am using the terms "local," "localize," and "localization." A number of scholars have recently attempted to model the extralocal nature of localities, not the least of whom is Arjun Appadurai in his groundbreaking volume *Modernities at Large*.<sup>1</sup> These scholars have noted that the nominal form "local" differs from the verb forms "localize" and "localization" on the basis of the two suffixes, which signal the manner in which a local is produced; that is, how a nominal abstraction, the local, is manifested or projected as a specifiable state. Emphasizing the processes by which locals are produced allows scholars entry into the pragmatics of social production and reproduction that seem at the surface transparent processes of self (and social) revelation and disclosure. Rather than reveal what local social structures are, I ask how they are produced, under what constraints, and by what technologies of affect, force, and discourse. As should become clear, I am arguing that structural and semantic approaches to textual meaning are, in fact, part of the process by which a local is produced as an abstraction that the law of recognition can apprehend. And I am arguing that this abstraction of the pragmatic life of social texts is a critical moment in which national ideologies are localized.

These moments are especially troublesome for indigenous subjects. In-

indigenous persons face the demand that they desire and identify in a way that just so happens, in an uncanny convergence of interests, to fit the national imaginary of the traditional Aboriginal person. With the help of lawyers and anthropologists like me, they face the task of making the incommensurate discourses, desires, and imaginaries of the nation and its subalterns and minorities arrive at a felicitous, although unmotivated, end point. If they slip, if they seem to be opportunistic, to be speaking to the law, public, or capital too much or not enough or in a cultural framework the public recognizes as its own, they risk losing the few judicial and material resources the state has made available to them.

I also circle around the conversation I had with a group of Belyuen women about a sound recording as a method for demonstrating that the places where the public rhetoric of national support meets the local production of social communities are often nondramatic, quotidian, in nature. They include verandas, shopping malls, and shady trees. Although ordinary, these places are critical to how local beliefs and feelings are shaped into opinions about who is responsible for present-day social maladies, such as the state's failure to curb the excesses of capital and to provide equitable health, housing, and education; and how the failures of public sympathy, state institutions, and lawful forms of property become the failures of local people to maintain their "culture."

A quick caveat. This chapter does not distill, through the alchemy of the social sciences, an authentic if skeletal indigenous tradition still operating across the Darwin Harbor. Quite the contrary, it highlights the contested nature of the production of locales within and between specific indigenous and nonindigenous social networks. Moreover, although I emphasize Belyuen processes of localization and territorialization under the shadow of the Aboriginal Land Rights (Northern Territory) Act, 1976, other Aboriginal groups working within its framework are no less, if differently, engaged in such processes.

#### DEATH RITE FOR MABALAN AND THE DESCENT OF ANTHROPOLOGY

6 July 1996, Belyuen. As if conspirators in a political intrigue whose historical measure had yet to be determined, we huddled around my small tape recorder under the veranda of the Belyuen women's center: Marjorie Bilbil, Ester Djarum, Gracie Bitbin, Alice Djarug and her daughter Patsy-Ann, Ruby Yarrowin and her daughter Linda, and I. Marjorie, Ester, Gracie, Alice, and

Ruby were the critical remainders of the language and history of the community; their daughters were beginning to “pick it up” in the local colloquial creole. Alongside this tape were a collection of academic and popular writings from the 1930s to the 1960s, most importantly the works of the anthropologist A. P. Elkin, who I discussed in chapter 3, and of Colin Simpson who wrote several short, popular accounts of the ancestors of these women. On the audio tape in the recorder that lay in the center of our loose circle was a recording of a *kapug* (a mourning rite held a year after a death colloquially known as a rag-burning ceremony) held at Belyuen in 1948 when these older women were young adults, my age, Patsy’s age, Linda’s age.<sup>2</sup> The *kapug* had been held for Mabalan, Ester Djarem’s deceased husband’s first wife. Several *wangga* were sung during the *kapug*; *wangga* are a regional musical genre in which song and dance are accompanied by didjeridu and clapping sticks. We had heard that Mabalan’s brother, Mosec Manpurr, could be heard on the tape singing a *wangga* referring to the Belyuen waterhole as a *durlg* (totemic Dreaming site). Why did these women and I care that Mosec might have received this type of song text from a *nyuidj* (an ancestral spirit) emerging from Belyuen *durlg*?

For events like the one in which we were engaged, Betty Bilawag would usually have been with us. Her absence was especially marked because Mosec Manpurr and his brother Ginger Moreen were Bilawag’s first and second husbands. On this day she was too sick, suffering through the last stages of respiratory failure, confined to a portable electric respirator, slowly dying from the fluids daily dripping into her lungs related to (as spokespersons of tobacco companies like to say) but not proven to be caused by the cigarettes she still smokes, and certainly exacerbated by a lifetime spent by wood-burning fires. By the time I begin writing this chapter in 1998, she will have drowned in the viscous mucus invading her lungs and the secondary infections resulting from this condition. Her closest friend and cousin (or, at that time, colloquially, her “wife”), Maudie Bennett, the sister of her two late husbands, died from the same condition in 1990. As in other interiors of the first world, at Belyuen the national statistics of indigenous ill health are embodied in people, materialized corporeally. Poverty leaves its mark, mottling most people with the scars of endemic streptococcal sores and exhausting some people with diarrhea, diabetes, kidney failure, and other degenerative diseases that alter body chemistries and change mental faculties. Many of those people who survive bear the physical and psychic mourning scars of generations of dead and dying.

As the papers of Elkin and Simpson were kicked about by dry season winds, those of us sitting on the veranda heard the footsteps of Ester Djarem’s

older sister, Agnes Alanga, rustling the grass around the east side of the building. Agnes Alanga is dead, but her *nyuidj* (spirit, ghost) often visits the women’s center when we go there to discuss “culture” and “traditions” or to hold women’s ceremonies. She was the ceremonial leader of local women’s ritual (“women’s business,” in the colloquial) before she died of kidney failure in 1994, a cause of death then all too common in the community. At Belyuen, as elsewhere in the Daly River coastal region, human bodies not only physically “absorb” and express their material conditions, they are also thought to be absorbed into the physical environment in the course of both everyday and ritual practices. The substances of human bodies—sweat, language, blood—are continually seeping into surrounding soils, waters, and air in the countless ritual and quotidian interactions that make up a person’s life. In this extraordinarily literal way Agnes has become a part of the countryside, has been attached to this place and to those of us who survive her and are drawn to this place in part to be near her.

Agnes’s specific identity will persist while those of us who knew her remain alive—the rustling we hear will bear the name of a person we knew; a proper noun (a rigid designator) will tether sounds to a specific face, to a set of memories, to marks she left in the landscape, to the things she used.<sup>3</sup> As we die this specificity will slowly dissipate, mediated by local speech practices such as the avoidance of the proper names of recently deceased persons. Over time, we will witness a reversal of how a name comes to represent, in the words of Charles Peirce, “pretty fairly what it would mean to an acquaintance of the man.”<sup>4</sup> But the meaningfulness of the rustling will not vanish if people remain who, although knowing nothing of Agnes, know nevertheless “some *nyuidj* this place.” Perhaps in the future people who hear a similar rustling of grass will attribute the sound to the *nyuidj* of a once-living woman, but will no longer be certain who this woman was. In other words, the rustle of grass will no longer indexically signal a particular person, though it might continue to signal a more generic relation—“my grandmother,” “his ancestor,” “her family.” Possible future listeners may forget the humanness of Agnes altogether and instead attribute the sound to the nearby Belyuen *durlg*, suggesting that the Belyuen *durlg* sent a *nyuidj* here for some reason.

Similar processes of abstraction and rereferentialization have occurred elsewhere in the region. In the coastal country south of Belyuen, at a site called Yirrkunwana, an old woman *nyuidj* walks around the coastal mangrove and in the jungle with her two dogs—one brown, one black with a white nose (or so some people describe these dogs). People disagree about who she once was,

if she was ever human, if Yirrkunwana is her name or the name of the site, and if she is part of the story for a dog Dreaming (*durlg*) track in the area. No matter the position they take on these issues, most Belyuen who discuss Yirrkunwana delicately qualify their remarks by mood, tense, or evidential markers: “werra” “yi” “before” “must be” “might be but I never been there.”

In a like manner but a different situation, once every memory trace of Agnes’s particularity might have vanished. Having been transformed into a *nyuidj*, Agnes might have been transformed into a *durlg* or *durlg*-related being; namely, an ancestral presence related to a Dreaming (totemic) site belonging to a particular group of persons in the logic of a clan.<sup>5</sup> Geographical space might have become inlain with the form of Agnes—her movement to and from a place. In losing her particular identity she might have become a type of *durlg*—*Alanga durlg*—structurally equivalent to Belyuen *durlg*.

These transformations of Agnes Alanga, or of Yirrkunwana, are not the result of faulty mental faculties or a dysfunctional culture. They are the result of local processes of semiosis; how sign-activity is locally understood and practiced and its effects on social life.<sup>6</sup> Of particular importance is the local avoidance of proper names and an injunction against using the name of the recently deceased, even their European names. Those who share a European name with a recently deceased person change it. Michael becomes Adam, only later to become Tony. Now, however, some archived signifying potential Alanga as “Agnes” the younger sister of “Chapata” and daughter of “Chunbuk” and “Moorambil,” will persist unless every last copy of this page burn in a historically unimaginable conflagration. Until then this page will remain as an archived potentiality, dormant until someone finds and reads it years or decades from now. And, into the fire must go not only this book but also Colin Simpson’s *Adam in Ochre*, which describes Agnes as bearing the Aboriginal name “Allunga” and as having “learned some hymns at the mission, where she is called Agnes.”<sup>7</sup> And into the fire also must go Elkin’s essay “Ngirawat,” which describes “Alanga (Agnes) and Mada (Ruby)” Yarrowin as having a ritual relationship based on a shared name (a *ngirawat* relation); and into the fire must go any video and audio tape that Agnes’s children and grandchildren might own of her *kapug*. And not only these audio and video tapes, but also the master tapes recorded by the ethnomusicologists Allan Marett and Linda Barwick and the linguist Lyz Ford and their memories and all the archived references they have produced of them.

We were not preparing for a book and recording barbecue, however. Quite the contrary; we gathered to mine the archive of memory held in this tape to

bolster their territorial claims over the lands, islands, and waters surrounding the community. It is very uneven terrain. Let me begin with its most local contours. Off in the grass to the left of us lay the ashes of some nondescript half-burnt logs, the remainders of various women’s ceremonies slowly seeping into the surrounding soil. Under them are the ashes of numerous other fires. The ground behind the adult education center slopes away to a creek. In Colin Simpson’s popular travelogue *Adam in Ochre*, he describes this mythic landscape: “[it was] a creek with a very deep waterhole. Every Waugeit knew that in that waterhole Beluin [Belyuen] once lived, Beluin the Rainbow Snake.”<sup>8</sup> Simpson’s work was first published in 1951, the same year that the minister for the Territories, the Honorable Paul Hasluck, counseled the nation not only to tolerate but to take full “enjoyment” of the traditions of its indigenous “full-bloods.”<sup>9</sup> In the same section of *Adam in Ochre*, titled “Mosek’s People,” Simpson described how the “Waugeit” attempted to drive the first white settler, Benjamin Cohen De Lissa, off the sacred Belyuen Rainbow waterhole and how De Lissa fired off flares to drive the “Waugite” off his sugarcane farm.<sup>10</sup> “Mosek” refers to Betty Bilawag’s first husband, Mosec Manpurr.

A. P. Elkin, the second chair of anthropology in Australia who conducted fieldwork in the community, also mentioned the Rainbow Snake Dreaming as important to the Wagaitj—and Mosec as an important ceremonial leader—in his 1950 essay “Ngirawat, or the Sharing of Names in the Wagaitj Tribe, Northern Australia.” Rather than refer to the location of the Belyuen Dreaming (or *durlg*), as Simpson did, Elkin refers to the role the Rainbow Snake played in annual local Inawana (Big Sunday) ceremonies. The Wagaitj held these Inawana ceremonies to “‘call up’ Waran [another Dreaming site on the northwest coast] and all the *dorlks*” until the “Government told the old men not to hold the ceremony any more, because natives from other parts working in Darwin blamed this ceremony, performed by almost local natives, for any sickness or other ills which befell them.”<sup>11</sup> These Big Sunday ceremonies were the same ones that Harney, Murray, and Turner helped the government suppress, as discussed at the end of chapter 3.<sup>12</sup>

“Waugeit” (now Wagaitj) is a term from the Batjema language referring to the coast and to coastal people. Since the settlement of Darwin in 1869, it has been a common way of referring to the Aboriginal groups living along the coastline stretching from the Cox Peninsula—where Belyuen is located—to Cape Dombey. Elkin believed that “Wagaitj means beach people, and includes three, and possibly four, linguistic groups.”<sup>13</sup> The four groups he mentions in his essays and field notes are the Kiyuk, Wadjigiyn, Amiyenggal, and

Marriamu. Most Aboriginal and non-Aboriginal persons would now supplement his coastal register with two other linguistic (or “new tribal”) groups — Mendayenggal and Marritjeban. As for the peninsula on which Belyuen is located, Elkin described it as having been “formerly the country of the Laragia (Larrakia) tribe, which is now nearly extinct. Its survivors are coalescing with one of the Wagaitj groups, the Wadjigiyn.”<sup>14</sup>

In modern kinship terminology, Wagaitj, Wadjigiyn, Kiyuk, and so forth are ways of referring to different kinds, levels, and amalgamations of regional descent structures. To what a “descent group” refers is a matter of some dispute within the anthropological community. In Australia, at the time of my fieldwork in 1996, this definition of descent had considerable play: according to Roger M. Keesing, descent is “a relationship defined by connection to an ancestor (or ancestress) through a culturally recognized sequence of parent-child links.”<sup>15</sup> The relationship defined by these parent-child links is the presuppositional grounds for a number of other social relations—for example, property, affect, ritual, and economy.

Charles Peirce might consider the kinship diagram a nice example of extreme abduction. The referential truth of descent, and the elegance of its modeling, seems beyond the necessity of justification. Figure 9 and the others that follow are examples of descent forms, in these cases, patrilineal and cognatic forms of descent. These diagrams seem to rely on nothing more than two very simple and seemingly indisputable facts of human being — sex difference and generation (heterosexual reproduction). Of course, figure 9 itself has a history. In 1910, the British psychologist W. H. R. Rivers announced a major methodological breakthrough in the study of “savage” societies.<sup>16</sup> One of his students, Radcliffe-Brown, the first chair of anthropology in Australia who did fieldwork in the Daly River region, would argue that all social organization extended from the kernel of kinship, a father, mother, and their children. According to this perspective, all societies narrow or expand these two “social facts” — sex and generation — to create the various features of social rights, duties, and responsibilities that comprise the skeletal order and function of society. These social facts are often encrusted with linguistic and cultural material. In the instance of patrilineal descent (in figure 9), an Aboriginal group may “phrase” descent as determined by the passage of a *durlg* (or, extralocally, a totem, sacred site, or Dreaming) through the father line — or may say that a Dreaming is “picked up” from fathers or grandfathers, which is usually understood as saying the totem is passed down through the male line.<sup>17</sup>

The locality of this group, what makes it a *local* descent group, derives

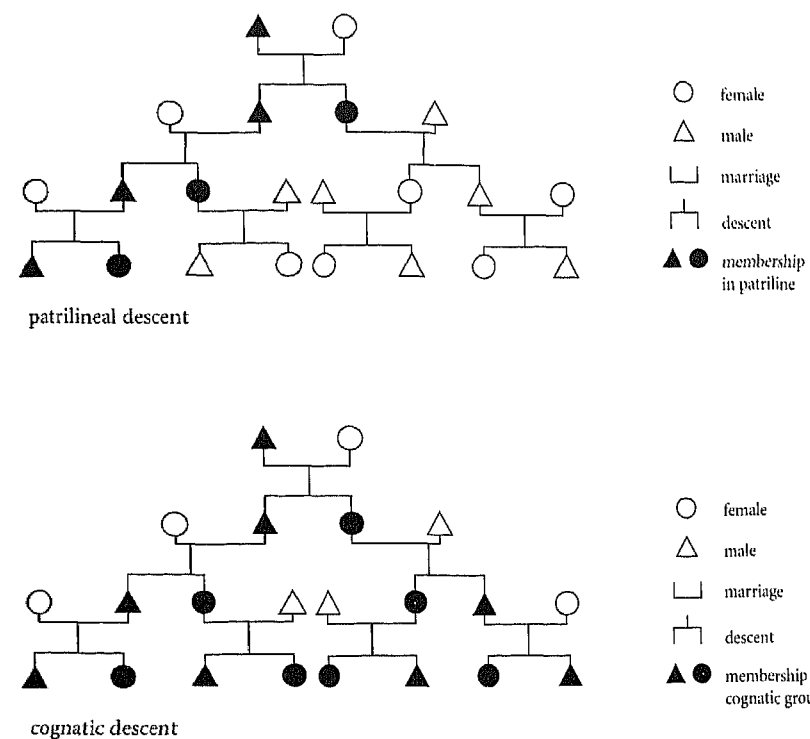


FIGURE 9. Patrilineal and cognatic descent.

from the nature of certain types of *durlg* Dreamings — the fact that *durlg* are located in a specific place.<sup>18</sup> Belyuen, for instance, have *durlg* — dog, whale, devil, stingray — that connect them to various territories along the coast south of the Cox Peninsula. Various combinations of *durlg* groups also refer to language as shared among themselves. Wadjigiyn, Kiyuk, Emi, Mentha, Marriamu, and Marritjeban are terms referring to a collection of *durlg* groups sharing the materiality of language, which, like *durlg*, passes down or is picked up from the fathers (figure 10). The local descent group is thus a complex indexical symbol, anchoring people to places and to each other.

The social implication of this diagrammatic argument was clear to Claude Lévi-Strauss. The atom of kinship was not the father, mother, and children as Radcliffe-Brown had proposed, but those persons and the other father, the uncle who provided the means for exchange between two groups and thus for the emergence of culture qua culture (figure 11). The principles of affinity — generalized and restricted exchange — were added to sexual difference and

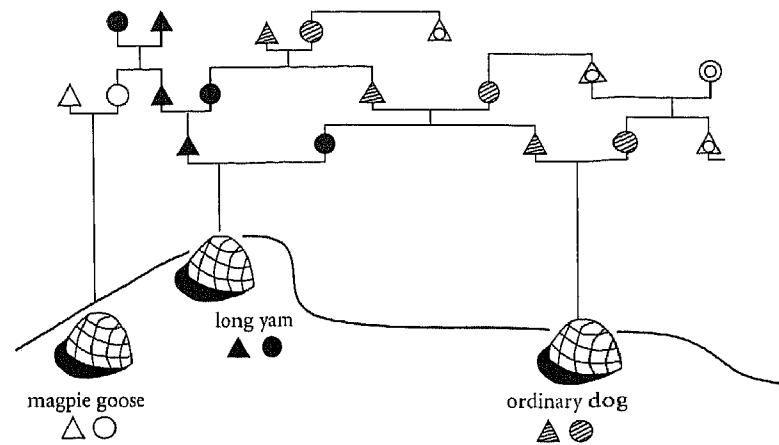


FIGURE 10. Patrilian and estate with symbols of marriage, consanguinity, and descent inverted.

generation as the necessary presuppositional grounds for a complex unfolding of human social organization and symbolization. Words, women, goods: these were possible only after the addition of the uncle.

All of the ideas above, of course, were at the time the subject of heated anthropological debate. Were Australian Aboriginal territorial groups based on principles of descent or affinity? Were all Australian Aboriginal territorial groups based on the estate model? Were Aboriginal men and women, according to L. R. Hiatt, “automata machines following tribal law in everything they do,” or were they people with politics?<sup>19</sup> In either case, demonstrating the regular and rational family-based grounds of territoriality was critical to the rhetorical emergence of land rights in Australia. Specifiable indigenous people owned specifiable lands and had specifiable principles for the management of its resources and its title. This process of abstraction was the necessary condition of territorial recognition within the property regimes of the state.<sup>20</sup>

And yet the classical literature was also replete with references to indigenous forms of localization—a different question to the ahistorical framework of the “local.” Reporting on Gidjngal territoriality in the mid-1960s, Hiatt noted that the Gidjngal and their neighbors sometimes abandoned their estates and became “permanently associated with a unit in another locality. . . . The descendents retained their group identity but displayed little interest in the land of their migrant fathers.” These groups attached themselves to a

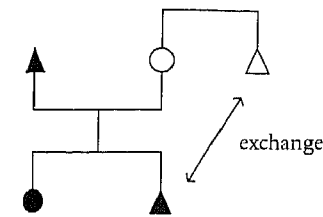


FIGURE 11. The atom of kinship.

local Dreaming site through the process of identification with it, and came to be considered from it in a “company relation” with the descent groups that predated them.<sup>21</sup> Over time the two descent groups came to share the same Dreaming. Elkin likewise reported changes of territorial association and identity in the Cox Peninsula region. In “The Complexity of Social Organisation in Arnhem Land,” for instance, Elkin noted the then-remarkable anthropological fact that a high incidence of “meeting and mixing” among the Wagaitj resulted in the “fluidity of [land-owning] boundaries, and even changes of clan countries.” Indeed, Elkin characterized the entire coastal region comprising the countries of the Wagaitj as socially dynamic and fluid rather than socially static, countering “the textbook description of local organisation.”<sup>22</sup> Elkin did not explain the principles that determined how or why these changes of land-owning boundaries and clan territories occurred other than to observe the fact that an Aboriginal person could change “his local group or horde by residence or initiation or both.” He did, however, provide a clue to the underlying processes through which residence and initiation became productive of territoriality in his discussion of the two major forms of totemism in the region, *durlg* and *maruy*, so-called cult totemism and conception totemism respectively.

What provided the mechanism of this social transduction? Why was it persuasive? Or, asking the same questions in a somewhat different way, how did local processes of abstraction and particularization intersect with these anthropological models? To address these questions, let me return to the veranda.

#### PRAGMATIC DESCENT

We had gathered on the veranda of the Belyuen women’s center to listen to an event that occurred in 1948. Some of those recorded in “Death Rite for Maba-lan” would be featured in other national broadcasts. Tom Barradjap would eventually become the senior songman and men’s ceremonial leader for the



region and, as such, be featured on a 1980 segment of the ABC television show "Nationwide Report," about the progress of the Kenbi Land Claim. The Kenbi Land Claim had national significance because of its proximity to the city of Darwin, the only major white settlement in the Northern Territory at the time (with a population then of approximately sixty thousand). The ABC television special shows Tom Barradjap seated on a coastal Dreaming site, Ngalwat, where Belyuen young men are taken as part of their initiation rites. He speaks a language the audience is not expected to understand. The reporter, Murray McLoughlin, translates for the show's imagined public: "This old man is speaking of the importance to Aboriginal people of the land now known as Cox Peninsula and of the importance of breeding places about here. He is mourning the destruction and desecration of the land and those places significant in his culture which occurred since white occupation of this Top End of Australia." Other Belyuen men and women are shown performing a *wangga*, and three are broadcast speaking to McLoughlin: Roy Yarrowin, Ruby's since deceased husband; John Singh; and Olga Singh. Three non-Aboriginal persons speak: Maria Brandl, the senior anthropologist for the aboriginal claimants at the time; Paul Everingham, then chief minister of the Northern Territory; and John Isaacs, the Labour opposition leader. (Figure 12 presents one of the standard representations of the regional landscape inlain with the kinship and marriage relations of some of these men and women and with some of their totemic, clan estate, and language affiliations.)

"Death Rite for Mabatan" was broadcast in 1948 on Australian national radio as part of "The Australian Walkabout Show." It was narrated by the same Colin Simpson who, three years later, included a modified version of the event in his *Adam in Ochre*. Allan Maret, the same ethnomusicologist who videotaped the *kapug* of Agnes Alanga Lippo (and whose fine research on *wangga* provides the basis of much of the discussion in this chapter<sup>23</sup>), found the recording at the Australian Institute of Aboriginal and Torres Strait Islander Studies in Canberra as he worked in the sound archives of Alice Moyle, another ethnomusicologist who worked among the Wagaitj in the 1960s. Moyle recorded several Belyuen performing *wangga* in other contexts, including Tom Barradjap and Billy Mundjimainmain, Marjorie Bilbil's father's brother. Maret informed the Northern Land Council and me of his discovery that the now-deceased Mosec Manpurr, Mabatan's elder brother and Bilawag's first husband, sings a Belyuen *wangga* at the very end of the broadcast "Death Rite for Mabatan." Why was this archival fact of interest? I begin to answer this question with another: What is *wangga*?

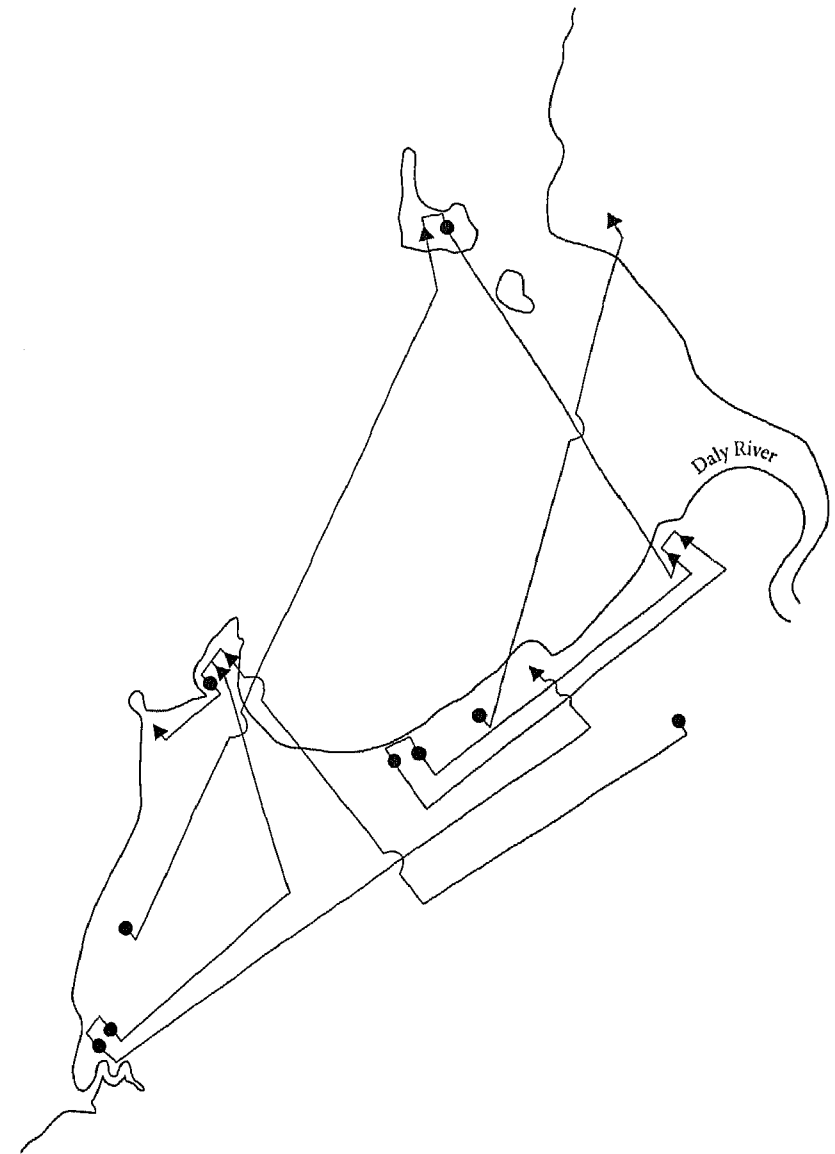


FIGURE 12. Affinal relations in the Daly River Region, 1850–1950.

As noted in general terms earlier, *wangga* refers to a regional musical genre in which song and dance are accompanied by didjeridu and clapping sticks. *Wangga* are public songs, openly sung in a variety of ritual and nonritual contexts. A songman composes a *wangga* text typically either out of material presented to him by a *nyuidj* while he is Dreaming or out of the ordinary events of daily life. *Nyuidj* who present songs to songmen may be a specific human ancestor known to the singer (often the songman's own teacher), or may be the humanlike manifestation of a nearby *durlg*. Elkin alluded to this latter form of text acquisition in his essay "Ngirawat." He observed that after his initiation "a young man is taken by his father to visit his *dork* center and is told the myth connected with it. Perhaps he too will dream a song about it."<sup>24</sup> Songmen also inherit specific song texts and inherit or are given the right by their human relations to compose songs for an area.<sup>25</sup>

Although men publicly authorize other men to sing their song texts and to compose and sing songs for specific territories, *durlg*-associated *nyuidj* rather than humans act as the ultimate authorizing agent of song composition. In the case of *nyuidj*-authorized *wangga*, the *nyuidj* not only signals the right of the composer to compose songs about a country but also signals the ancestral composition of that country. In other words, the appearance of a *nyuidj* in a place "says" something about the *durlg* ontology of the place by acting as an indexical hinge between human and *durlg* ontological realms. I use the indefinite modifier "something" purposely because although the indexical hinge between human and *durlg* domains is present in the act of *wangga* composition and song, the meaning of this hinge necessitates higher-order arguments of a type I discuss below.

For those steeped in a Western narrative tradition, analyzing *wangga* may disappoint them, may seem to them a meager, minor literature. *Wangga* may even exasperate them, because the songs may seem to be minor literatures needlessly embedded in complex syntactic structures and impenetrable linguistic registers.<sup>26</sup> When viewed from the perspective of semantic and narrative sense and meaning, *wangga* threaten to reward laborious analytic effort with little return. Not much seems to be there. *Wangga* usually consist of only a few short sentences, whose morphological structure has been "tangled-up" or "twisted" in Belyuen terms. In linguistic terms, normative syntactic structures have been purposively violated in order to force listeners to reconstitute the message by rearranging morphemic units if they want to make sense of the text.

But perhaps the negative evaluation of the song genre results from ap-

proaching *wangga* from a narrative and semantic perspective. As much as *wangga* are sense oriented, they are technically and precisely non-sense oriented. By non-sense I refer merely to how Belyuen understand the performative, indexical, function of *wangga*. The linguistic code of *wangga* is not simply, or perhaps not even primarily, a vehicle for expressing sense-meaning; it does not simply or primarily convey a narrative about a place. Rather in the act of composition and singing, *wangga* construct an architectural space of sorts among the ontological realms of singer (and his extendable kin), the territory commonly associated with the language of the song, and the territory to which the song refers. It entails a space in the act of composition and performance. From one perspective, the spatial form (social, geographical) that every *wangga* lays out is neutral in relation to its sense and social meaning. This space simply becomes present in the act of singing. But in being present, this laid-out non-sense space can be (note: may not be) drawn into social work by social agents who, often unknowingly, regiment these actualities into higher-order social meanings and who then make broader arguments about the social consequences of these meanings—the how, who, when, and where of *proper* action.

All this becomes clearer when we look at an actual *wangga* composed for the region and, more specifically, at the semantic and pragmatic features that structure receptions of it. Along with clarifying local semiotic practices, looking at an actual text begins to answer the question of why these women and I cared that Mosec might have sung this type of song about Belyuen. Let us take as example a *wangga* that Billy Mundjimainmain sang about the island Duwun, which is located off the Cox Peninsula and within the area under claim. The first six "lines" of the Duwun song are in *nyuidj mal* (spirit language). The first two lines of the untangled Duwun song are:

dagan mele dagaldja  
dagan mele mele

dagan brother dagaldja  
dagan brother brother

"*Dagan mele dagaldja*": most Belyuen say that *nyuidj* language is impenetrable, untranslatable. Rather than a vehicle for semantic meaning, *nyuidj mal* indexes a quality of *djewalabag*—the cleverness of men, and women, who can understand and speak these words. Evidential and ontological markers index the origin and authorizing agency of the song—this song came from

*nyuidjalag*, a quasiparallel ontic realm that *djewalabag*, “clever persons,” access through dream and song, as did Billy Mundjimainmain, and as might have Mosec, who the 1948 radio broadcast stated “is also a *djewalag*.”<sup>27</sup> Rather than diminishing the authority of the *nyuidj* or singer, the semantic opacity of *nyuidj* language intensifies it, signaling the ontic reality of *nguidjalag* while maintaining its epistemological impenetrability to all but those who have the nature of *djewalabag*.

The indeterminate content of the *nyuidj* message is complemented by the indeterminate status of the vocalization itself. Is “*dagan mele dagaladja*” an instance of reported speech (*game*, “he said” nonfuture)? Are we who sit and listen to taped recordings of this song hearing about an event or hearing the event itself—are we hearing Billy Mundjimainmain engaging in an instance of (sung) reported speech or are we hearing the *nyuidj* singing, we in the dream with the songman hearing what he heard?<sup>28</sup> The tense of *game*, nonfuture, influences the undecidability. The answers to these questions cannot be secured or settled once and for all, especially when *wangga* are performed within a locally determined context in which norms against direct interrogatives are in place (say, against asking, “what that meaning?”). Two different problems present themselves. First is the problem of interpretation. What the songman sings and what he intends to convey are understood to be potentially two very different things. The best songmen are understood to encode a secret, or several secret, levels to their song text. Second is the problem of performance and performativity. Even if a songman is presumed to be the medium of a *nyuidj*, in every specific instance someone could claim that he failed to achieve this role. In any case, it is not the definitive answers to the above questions per se that is important here, nor even the possibility of saturated context, but rather that these are conditions of and for argument: the possibilities that the intersections of these two ontological orders, human and *nyuidj*, provide for the making of human sociality, corporeality, and meaning. To understand these possibilities we need to return to the poetics and grammar of *nyuidjalag*.

While most Belyuen and their regional neighbors say that *nyuidj* language is semantically impenetrable, embedded in this language are local human linguistic nominals and particles, most typically kinship terms and phatic and emotive particles. For instance, the first two lines of the Duwun song contain a possible kin address, *mele* (brother), which then figures a set of social relations between the *nyuidj* and the singer and, via the songman, between the *nyuidj* and listeners. Kinship literally extends out from the initial address into the audience of listeners and potential listeners. Extending outward with

these kinship relations are other social identities—linguistic, estate, clan affiliations, ceremonial. An entwining of these multiple identities ensues, creating “tracks” or “footsteps” that can be followed and infused with other social meanings, obligations, and identities (see figure 13).

Even when a *wangga* text does not present an explicit kinship relation between singer and *nyuidj*, the understood address of the *nyuidj* to the songman and the formal arrangement of other semantic orders metapragmatically constructs a formally meaningless but coherent and cohering apparatus into which meaningful arguments can be inlaid and, more abstractly, a feeling of the concrete integrity of an alternate worldly authority produced. We have already seen how the linguistic code of the *wangga* structures spatial and social relations. Other linguistic functions build into the *wangga* other semiotic orders into which meaning is laminated. For instance, in the next four lines of the Duwun song the poetic function of the particles *karra* and *yagarra* cohere and regiment the *nyuidj* utterance into segmentable units (*-arra*), while maintaining listeners’ attention (the phatic particle “Hey!”), and orienting their emotional states (the emotive lamentative particle “Oh no!”). In other words, the poetics of particles orders the text into higher order segments and thus a *nyuidj* syntax as such.<sup>29</sup>

karra, nyele wewe  
yagarra, nyele wewe  
karra, nyele wewe  
yagarra, nyele wewe

Hey! nyele wewe  
Oh no! nyele wewe  
Hey! nyele wewe  
Oh no! nyele wewe

This pseudosyntax makes the text feel coherent even though sense meaning cannot be extracted from it, and it makes it seem durable and detachable from its local context even though its coherence depends on that local context. The *wangga* can be experienced as something from somewhere nonhuman—if, of course, the listener can interpret the various indexical orders built into its structure. Meanwhile, the meaning of *nyele wewe* remains a placeholder, inciting speculation and motivating contextualized and contextualizing interpretations. For instance, when discussing this text, women and men have asked themselves: What might the *nyuidj* have meant? Why did it appear at

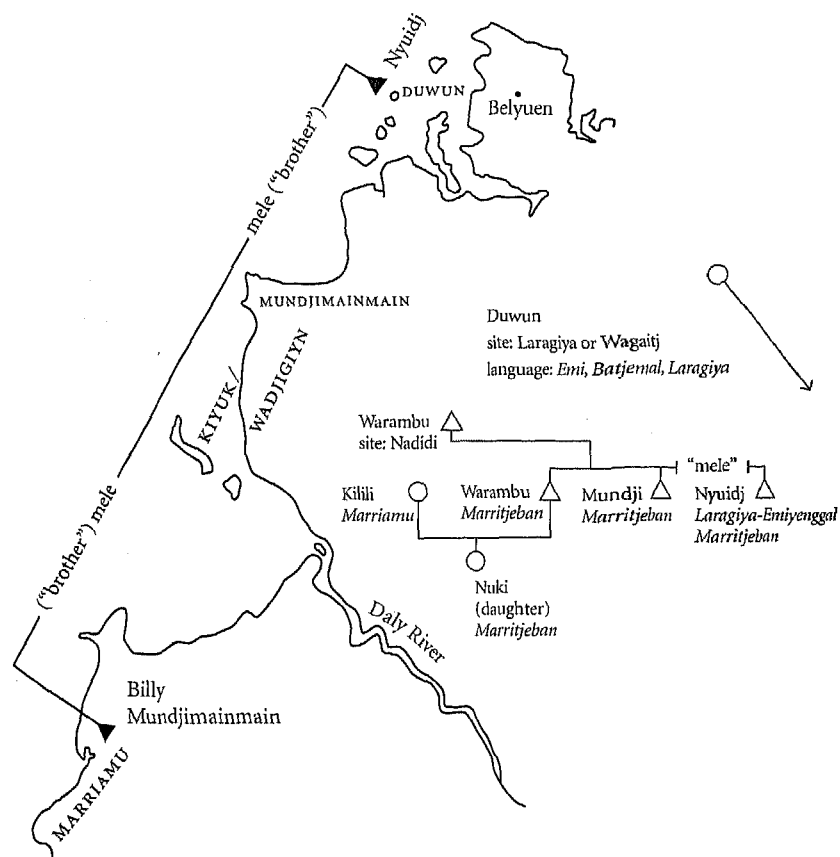


FIGURE 13. Ghostly territorializations.

Duwun? Why did it appear at that moment? To Billy Mundjimainmain? As I argued above, these pragmatic features of the text provide the grounds on which meaningful and persuasive arguments can be made about the social relationship between a social group and a place, and about the “true” substance of a person and, by extension, her kin. In other words, these songs are simultaneously referential, argumentative, and performative acts. But, if this is so, the felicity of these text acts depends only in part on local understandings of evidence and judgment — their institutions, scenarios, and sceneries. It also depends on distally produced and institutionally mediated demands for how evidence and judgment should appear, demands that are now part and parcel of local processes of localization. That is, state laws like the Aboriginal Land Rights (Northern Territory) Act are one of the contexts entailing the ways these texts are excavated. I will come back to this point in more detail later, but here let me remind readers of the conversations found at the end of chapter 1 in which the question of what counted as a real kinship relation in the context of land claim hearings threatened to redefine, narrow, and block processes of local social negotiations.

The propositional and performative potential of *wangga* is clear in the final four lines of the Duwun song when for the first time a human language, Emiyenggal, is used exclusively. This code switch is accompanied by a shift in person, from first to third person, and with this shift a movement from a poetic reliance on *nyuidj mal* to evidential markers (-*yi*). That is, the poetic structure of the Duwun song emerges out of the evidential particles of the now foregrounded, linguistically demarcated composer. Through these evidential markers, Billy Mundjimainmain makes a specific claim about the authenticity of the reported event, his right to sing about the event and the place where it occurred, and the truth value of the authorizing *nyuidj*: Listen! It happened. I was there. *Nyuidj* was over there. You just heard im.

karra game yi  
 karra duwun ngana yi  
 gidji dhatdhat mandha ya  
 karra game yi

Hey! he sang [it happened]  
 Hey! Duwun I went [it happened]  
 crawl sit a song away there  
 Hey! he sang [it happened]

The geographical referent, Duwun, appears only in this final segment of the *wangga*, and with it appears a potential ordering and anchoring of specific persons in specific mythic and geographical spaces. Before I briefly suggest how this might be, I should note that the identity and status of geographical referents can be no better secured from culturally mediated processes of re-memorialization and rethemization than the identity and status of *nyuidj* events — such as was the case for Agnes Alanga discussed above. Mundjimainmain, for instance, simultaneously refers to a person, Billy Mundjimainmain, and to a place, Mundjimainmain. So does Duwun. Therefore, like personal references to Agnes Alanga Lippo (“*Alanga there*”) might slowly be transformed into geographic referents (“that place Alanga is there”), so might those to Mundjimainmain. And vice versa. Some Larrakia say Duwun refers to a female ancestor of theirs and link themselves to Duwun the place through the common name. Other Aboriginal persons say Duwun is “just a place.” In other cases, a personal name derived from a site name has been lifted up from that geographical referent and moved to another geographical place through the movement of the person who was given that name. In any case, the persuasiveness of any particular claim emerges from the multiple “tracks” the person making the claim can muster — residential, linguistic, affective, ceremonial, and so forth.

This is the invaginary nature of arguments — every claim about the referent of a proper name must be anchored in some evidentially accepted archive of memory, practice, and action and must be attached, if ever so delicately, to whatever new texts and contexts exist at the time the argument is being made. And every effective argument becomes the ground condition for new arguments. Even if people all agree that a *nyuidj* did give this *wangga* to the person Billy Mundjimainmain at the place Duwun, this agreement only stands as the grounds for an infinite series of questions and arguments: Why did a *nyuidj* give Billy Mundjimainmain a song about this place in this language? What does it indicate about the two sites, Mundjimainmain and Duwun, about the countries associated through Mundjimainmain the person, his estate, the code of the song, and Marritjeban and Emiyenggal lands and peoples? Who has rights to this song and, thus, responsibilities for this place? Not that the best argument always prevails, or even usually prevails; sometimes the most persistent and consistent arguments figure the scene.

This said, the geographical referent “Duwun” reveals and builds into the Duwun *wangga* a still more elaborate scaffold on which arguments about the spiritual status of this place and this person are built, arguments such as

the country in which Duwun is found “speaks” Emi; the country has absorbed Emi people, or Mundjimainmain was secretly Larrakia; the entire territory stretching from Nadidi to Duwun is somehow related, is somehow Wagaitj. Particular persons like Marjorie Bilbil can use the geographical and social architecture of this *wangga* to move backward in time and space, tracing her relationship to Duwun-the-place through her father’s brother’s relationship to this *nyuidj*, reconstituting the substantial nature of her body in the process. Rather than through heterosexual reproduction in the first or even last instance, corporeality and territoriality is (re)produced through the intercourse of the living and the dead, the textual and corporeal. If, that is, people remain who know how to read the semantic and pragmatic codes embedded in songs like Duwun, and if these cultural practices of interpretation are themselves embedded in contexts that afford them performative force. In other words, although these semiotic practices may be rooted in local understandings of the corporeal exchanges between human and *durlg* ontologies, and although they may provide a basis for the production and reproduction of human lineages, families, and bodies, their social felicity now depends as much on the archive of the nation, legal precedent, public record, and state law as on the archive of local ritual and face-to-face persuasion and incitement.

With this in mind let me return once again to the question I raised above. Why did these women and I care that Mosec might have received this type of song text from a *nyuidj* emerging from Belyuen *durlg*? And, as important, what transformed our interest into an activity, laborious at times? What prompted us to abandon whatever other pressing or passing concerns cluttered our lives, to meet under this particular veranda, and to concentrate on translating *wangga* songs from an old, scratchy tape?

#### LEGAL DISSENT

“Aboriginal” means a person who is a member of the Aboriginal race of Australia.

“Aboriginal tradition” means the body of traditions, observances, customs, and beliefs of Aboriginals or of a community or group of Aboriginals, and includes those traditions, observances, customs and beliefs as applied in relation to particular persons, sites, areas of land, things or relationships.

“traditional Aboriginal owners”, in relation to land, means a local descent group of Aboriginals who:

(a) have common spiritual affiliations to a site on the land, being affiliations that place the group under a primary spiritual responsibility for that site and for the land; and

(b) are entitled by Aboriginal tradition to forage as of right over that land.<sup>30</sup>

There seems to be a very obvious answer to the questions posed at the end of the last section — the ethnomusicologist Allan Marett thought that a translated version of the Belyuen *wangga* might provide the Belyuen useful evidence to support their land claim. The Belyuen had recently decided to put themselves forward as the nonexclusive “traditional Aboriginal owners” of the land surrounding the community under the Aboriginal Land Rights (Northern Territory) Act, 1976 (hereafter LRA).<sup>31</sup> In a very simple sense this is why the women and I had gathered: to be recognized as the “traditional Aboriginal owners” (a term of statutory law) for the land under claim, the Belyuen and their lawyers and anthropologists needed to convince a land commissioner that they satisfied the specific requirements of the LRA; namely, that they were a “local descent group” who have “common spiritual affiliations” to a site on the land that place them under “primary spiritual responsibility for the site” and for the land.<sup>32</sup> The LRA not only enacted a textual limit to the form of an argument, the legislation also established a number of regional land councils charged with administering Aboriginal land claims. In 1995 I was asked to act as senior anthropologist for the Belyuen by the Northern Land Council, having worked with the community since 1984.<sup>33</sup> It was my job to demonstrate the anthropological basis for this thing called a “local descent group.” What, then, is the meaning of the juridical concept of local descent group?

At the time the Kenbi Land Claim was first submitted in 1979, three land claims had been heard under the auspices of the LRA. In his very first land claim report, the first land commissioner, Mr. Toohey, accepted the argument by W. E. H. Stanner that all traditional Aboriginal societies reckoned the descent of territorial rights through the father and father’s father (patrilineality), and that an Aboriginal person could belong in a full sense to only one local descent group and thus to only one territory. For Stanner the patrilineal “totem” (*durlg*) acted both as a symbol (or emblem) of clan solidarity and as an index of the proper territorial location of a social group. As it descended from father to children, the totem functioned as an indexical hinge between human group and the place where the totem was located. Stanner understood the transmission of the totem to be a fairly straightforward heterosexually

mediated process by which the sign passed from father to children (with adoption understood as analogous to heterosexual reproduction). In short, Toohey recognized as a matter of legal fact a (disputed) anthropological model of indigenous land ownership — the patrilineal clan-estate group.

In so accepting this academically mediated model of indigenous social organization, Toohey instantaneously cast all other means by which “traditional Aborigines associate identifiable groups of people with particular ‘countries’” as distortions of or supplements to the heterosexual machinery of human descent.<sup>34</sup> Ties to country based on corporeal exchanges discussed above and in earlier chapters — quotidian experiences of living in and moving through space and nonquotidian events of conception, ritual, death — were excluded as the legitimate major means by which local descent groups could be formed, or, if formed, found to be legally felicitous territorial groups. The spiritual and material relationship that Aboriginal men and women had to land, to the dead, and to the unborn was reduced *in the last instance* to the heterosexual reproduction of blood, *symbolically* narrowed and demarcated by the patrilineal totem. But this anthropological model also provided the persuasive means to sway a court and public to recognize indigenous land rights. From 1976 to the time of this writing, forty percent of land in the Northern Territory has been granted to indigenous groups under the auspices of the LRA.<sup>35</sup>

Prior to the 1989 Kenbi hearing a number of land commissioners had recognized a restricted form of “spiritual descent” as satisfying the LRA requirement that claimants be a local descent group.<sup>36</sup> In the Nicholson River Land Claim report (1985), for example, Justice Kearney stated that “‘descent’ is not limited to biological descent; it means socially recognised descent.”<sup>37</sup> Kearney was satisfied that “descent from a common mythic ancestor is a principle of descent deemed relevant by the claimants and sufficient with their other ties to constitute” a finding of traditional Aboriginal ownership.<sup>38</sup> However, in contrast to the Belyuen case, the majority of the claimants in the Nicholson River claim were members of human descent groups (patrilineages or matrilineages to a patrilineage). Only two claimants, Ned Dambambat and Brady Bates, were said and found to be claimants based on moiety classification, ritual responsibility, and, critically, descent “from the same mythic ancestors as the other members of these groups.”<sup>39</sup> That is, spiritual descent supplemented human descent as the primary mechanism of group construction — it did not determine it.

The land commissioner who followed Kearney, Michael Maurice, similarly

accepted the concept of spiritual descent as a supplemental mechanism of inclusion to the major human descent group.<sup>40</sup> However, in the Ti Tree report (1987) Maurice refuses to accept spiritual descent—the “assertion that the claimants gain membership into the local descent group through descent from Altyerreng (Dreaming) ancestors”—as the primary principle on which the local descent group was formed.<sup>41</sup> In the Ti Tree claim, not only were the descent lines by which claimants were said to gain rights to country expanded by “an additional qualification for membership of the local descent group: ‘spiritual descent’, was asserted and claimed to be of more importance than any of the four genealogical links.”<sup>42</sup> In other words “spiritual descent was set apart from the descent from human ancestors . . . and was given a priority in defining the land of the traditional owners.”<sup>43</sup> For Maurice this belief was simply inconceivable.

Although having restricted “descent” to include only heterosexual reproduction (and its symbolic equivalent, adoption), since 1979 land commissioners have moved significantly away from viewing the “local descent group” as a strict anthropological concept to viewing it as an ordinary concept and phrase.<sup>44</sup> Toohey himself would reverse paths in his 1981 Finnis River report, stating that the land commissioner should base his understanding of recruitment into a local descent group “on a principle of descent deemed relevant by the claimants” not on anthropological theory or debate. Land Commissioner Michael Maurice also argued that legal judgment should be oriented to local beliefs when he stated in his 1985 Timber Creek report: “It is [a] religious bond with the world . . . that the Parliament has endeavored to recognize by its definition of traditional Aboriginal owner with its three elements: family ties to land; religious ties; and economic rights, i.e., to forage.”<sup>45</sup> The most generous reading of this legal genealogy would understand these land commissioners to be attempting to liberate indigenous practices of local descent from the vice grip of anthropological theory. And yet the commonsense family of land claim legislation remains the classical lineage model developed and refined during the heyday of British structural functionalism. This lineage model has not been displaced but merely expanded to include a more diverse set of filial principles—matrilineality, ambilineality, and cognation.<sup>46</sup>

But even these expansions had yet to occur in 1979. Not surprisingly, then, the 1979 Kenbi claim book stated that the traditional Aboriginal owners of the Cox Peninsula and Islands were the seven surviving members of a small patrilineal clan group, the Danggalaba. *Danggalaba* is a Larrakia term in most accounts used to refer to a crocodile Dreaming (*durlg*) on the northwest coast

of the Cox Peninsula. The Belyuen refer to this same *durlg* as *Kenbi*. According to the authors of the Kenbi land claim book (1979); before European settlement, the territory, or “estate,” of the Larrakia-speaking Danggalaba clan may well have included only a small northwest section of the peninsula, a claim later disputed by a number of Larrakia claimants. As surrounding patrilineal estate groups died out, were killed, or moved away from the area as a result of the settlement of Darwin, their estates were gradually absorbed by the Danggalaba. At the same time that the Danggalaba clan was slowly absorbing abandoned Larrakia estates, various Wagaitj clans were moving up from their southern estates onto the increasingly depopulated Cox Peninsula to avoid settler violence in their southern countries and to take advantage of the white settlement of Darwin. As did Elkin, the authors of the 1979 Kenbi claim book represented the Danggalaba and Wagaitj as slowly coalescing—marked by the authors’ decision to title the claim book *The Kenbi Land Claim* rather than *The Danggalaba Land Claim*. Like all good legal narratives the Kenbi claim book did not overly complicate the case it advanced. The authors make no mention of any of a number of historical records referring to the Cox Peninsula and surrounding islands as Wagaitj country.

Even though they deleted these countermappings, the authors of the Kenbi claim book did something remarkable for the time. They suggested not only that the land commissioner expand the basis of land ownership to include one-step matrilineal (rights to a person’s mother’s country, though not to a person’s mother’s mother’s country) of the Danggalaba clan, but also, and more radically, that he recognize the Wagaitj people living at Belyuen (Delissaville) as belonging to and owners of the country under claim on the basis of what they considered to be a wholly different model of corporeality and sociality than that of kinship and descent. The authors observed that it was evident “that people associated with the claim recognized more generalized connections to country than those of patrilineality.”<sup>47</sup> They emphasized the rights and obligations the Belyuen Wagaitj had accrued to claim lands on the basis of their historical, ceremonial, and birth relations to the country; that is, forms of attachment altogether outside a lineage-based model of descent. Invoking Stanner, the authors argued that in the extreme conditions of colonial depopulation “Aboriginal life . . . crossed a threshold . . . [where] the regime was so harsh that estate-range distinctions were near or at a vanishing point.”<sup>48</sup> What replaced the estate-range was a territoriality based on ceremonial, birth, death, and name ties to the land.

In so arguing for the expansion of the basis of land ownership from hetero-

sexual reproduction to other forms of corporeal intercourse between human and *durlg* ontological orders, the authors of the Kenbi Land Claim provided an anthropological foundation to the public statements of the Wagaitj. On 12 September 1973, Ginger Moreen, Tom Barradjap (Mosec's younger brother), and Rusty Moreen (Agnes Lippo's older brother), chaired a meeting with Justice Woodward, who was investigating if and how federal legislation should be drafted to recognize the land rights of Northern Territory indigenous groups. In this meeting senior men are recorded telling Woodward that it was "alright" for the Wagaitj and Larrakia to own this peninsula together, and, moreover, that the peninsula should be part of a larger land grant including their southern coastal territories.<sup>49</sup>

Thus it was relatively unsurprising at the time that on 29 July 1975 and 17 December 1975 the Larrakia and Wagaitj Belyuen proposed that two claims be lodged over the peninsula, one of which covered the far northern section where several important Larrakia *durlg* were said to be located. In the *durlg* bulg, the father of Olga Singh and the senior resident Danggalaba man, was named trustee. Another claim would be lodged over the rest of the peninsula and held in trusteeship by the "Delissaville Council."<sup>50</sup> At this point in time, local sentiment seemed explicitly opposed to territorial claims based on Western models of human descent: "At a meeting it was said that singling people out according to their father and mother divides people. Where land is concerned they would prefer as a community to state, with evidence, their relationship to the claim area and their interests in it."<sup>51</sup>

These proposals were written, however, during the initial drafts of the LRA when it appeared that the federal legislation would provide multiple bases for lodging an indigenous claim. In its final form, however, the LRA stipulated that to be found to be a "traditional Aboriginal owner" a person must be a member of a "local descent group."<sup>52</sup> It was in this legislative context that the authors of the Kenbi claim put forward the smaller Danggalaba group as the "traditional Aboriginal owners" of the claim area.

Several legal challenges postponed the hearing of the Kenbi Land Claim until 1989. Most of the initial indigenous claimants had died by then (and certainly by 1995 when it was reheard) — ten years is a fifth of the average lifespan of Aboriginal men and women. This issue presented a grim vital statistic with political significance — opponents of the claim could count on the debilitating physical and mental health effects of poverty on the claimants. By the time the Kenbi claim was finally heard for the first time, three of the seven members of

the Danggalaba patriclan had died, as had numerous other key Wagaitj informants. So many Wagaitj and Larrakia men and women had passed away that the senior anthropologist at the time, Michael Walsh, compiled a list of dead he lodged into the legal record as "Kenbi Necrology." Of the four survivors of the Danggalaba patriclan, a senior man had suffered an incapacitating stroke while dancing *wangga* for a young men's initiation ritual at Belyuen; a senior woman who lived in Darwin had publicly ceded her rights to the Belyuen; a junior woman had died; another junior woman expressed no interest in the land claim; and another junior woman knew little about the country, although she expressed a desire to learn.

If historical time had reduced the Danggalaba patriclan, political time had increased the resolve of urban-based Larrakia women and men to consolidate an identity-based political and social program. Having suffered through the long history of state welfare practices (many urban-based Larrakia or their parents were part of the Stolen Generation; placed in foster homes because of their biracial heritage) Larrakia men and women living outside the claim area took statements such as Elkin's that the "Larrakia tribe" was "now nearly extinct" not only to be wrong, but to be a dangerous conflation of racial and cultural being and identity. In 1983 the Darwin-based Larrakia Association was founded and, around the same time, a "group of urban Larrakia wrote to the NLC [Northern Land Council] seeking to be added to the list of claimants."<sup>53</sup>

The LRA, however, demanded more than a simple list of claimants; it required that a specific social configuration be produced — a local descent group. Agreeing to represent the larger Larrakia group, the Northern Land Council abandoned the Danggalaba patriclan as the claimant group in 1989 and, instead, advanced a much larger descent group, the "Larrakia language group." The Larrakia language group was said to be composed of multiple lineages — the families of anyone who identified as Larrakia, could demonstrate he or she had a Larrakia ancestor, and wished to be a part of the claim.

In order to be legally recognized as a traditional Aboriginal owner, however, it is not sufficient just to be found to be a member of a local descent group; claimants must also demonstrate "common spiritual affiliations" to a site on the land that place them under "primary spiritual responsibility for the site" and for the land. At the time of the hearing only a handful of Larrakia lived on the peninsula. The Belyuen Wagaitj were the ceremonial leaders for the country and were considered most knowledgeable about the land's spiri-



tual and material features. Because few people within this larger Larrakia group knew the cultural and economic contours of the land under claim—an unknown number had never visited the area before the claim commenced—lawyers acting on behalf of the Darwin-based Larrakia and the Belyuen decided that the Belyuen Wagaitj would lead the evidence as “custodians” of the land and its spiritual heritage for the Larrakia.

In 1989 I was conducting my dissertation field research and helping with the running of the claim. By 1998 I was testifying in court about my recollection of why, in the middle of the 1989 hearing, the Belyuen were put forward as traditional Aboriginal owners in their own right and, when put forward, why they were presented as three Wagaitj “boxed-up language groups” (the Kiyuk-Wadjigiyn, the Emi-Mentha, the Marriamu-Marritjeban) rather than as a single Belyuen local descent group, the way they had been presented in the 1995 hearing.

PROF. POVINELLI: No, it was probably not correct to call it a Marriamu/Marritjabin [Marritjeban] language group because, in fact, it's only a number of what I would call patrilineal fragments of all patri-clans and certainly not the entire Marriamu/Marritjabin [Marritjeban] language group. There are a number of lineages that didn't appear then—no, didn't appear then and don't appear now [as part of the claimant group].

MR. KEELY: Why was it characterised in that three double-named group way in 1989. Why was it advanced and packaged in that manner?

PROF. POVINELLI: It was decided, in the middle of the claim, that these new groups would be—that the Belyuen would be advanced, or the Wagaitj—I think there are various ways in which they were described—would be advanced as a claimant group and then the question was how they should be advanced, what model of descent.

What we were going to say was that the local descent group of the people then—you know, and again I'm using language that people used then and that I would not use—of the people who so clearly demonstrated common spiritual affiliations and primary spiritual responsibility for the place, for the area under claim.

I said, “Well, they say they're all joined up,” but I didn't have the time, nor was my research at the time, focused on teasing out that, what I would now call a cognatic descent group. So rightfully, I think, in some ways we had a day to put this together—

MR. KEELY: A single day?

PROF. POVINELLI: Maybe two. I mean, it was really quite short. I forget. I mean, I actually forget the details how long it was, but it was—I think it [was] just [two days].<sup>54</sup>

When the 1989 hearing was over, the fourth land commissioner, Justice Olney, found that no traditional Aboriginal owners existed for the land under claim. Based on his reading of the juridical, legislative, and anthropological archive, Olney argued that Stanner's earlier model of strict patrilineal descent was the correct model of traditional descent. According to Olney no one satisfied the requirements of the LRA: the Larrakia language group was an infelicitous form of descent; the Danggalaba patriclan had only one member who demonstrated primary spiritual responsibility for the land (and one person did not make a “group”); and the Belyuen expressed “very little enthusiasm” and “generally lacked conviction” about their status as claimants.<sup>55</sup> In relation to the Wagaitj claim, he and others were bothered by two facts; first, “the various [Wagaitj] family groups who are put forward in this claim have common spiritual affiliations with sites elsewhere than on or near the claim area and in some cases continue to actively maintain those links by visiting their countries.”<sup>57</sup> More troubling to some was the fact that Belyuen seemed to base territoriality to southern countries on principles different from those on which they based their ties to the peninsula.<sup>58</sup> Second, the Wagaitj resisted using the phrase “traditional Aboriginal owners” to refer to their relationship to the land under claim. What had happened between the early 1970s and the late 1980s such that the Belyuen Wagaitj could be described as expressing “very little enthusiasm” and “generally lack[ing] conviction” about their status as claimants?

I had five years to mull over this question before the Kenbi Land Claim was scheduled to be reheard in 1995. In the interim, the Supreme Court overruled the grounds of Olney's decision, referring to the mandate that the land commissioner base his findings of local descent on principles deemed relevant to the claimants.<sup>56</sup> In 1995, an even larger number of Larrakia were once again forwarded as the traditional Aboriginal owners. The criteria for membership remained similar to that in 1989, but the anthropological model of descent changed. The Larrakia were now said to be a cognatically defined “new tribe” rather than a “language group.” The practice of the hearing also changed. In the first hearing, the Belyuen were afforded a preeminent status as those who were the knowledgeable people about the land and who held ceremonial knowledge for the claim lands. During the second 1995 hearing, lawyers

representing most Larrakia believed that members of their claimant group would have to prove their own independent knowledge about the claim lands to be recognized as “traditional Aboriginal owners.” Once again, but this time in the middle of the 1996 claim, the Belyuen asked their legal counsel to advance them as the nonexclusive “traditional Aboriginal owners” for the Cox Peninsula and surrounding islands. This time, however, they insisted they be presented as “Belyuen, all same, together.”

When the Kenbi claim was reheard in 1995–96, yet another land commissioner, Justice Gray, not only was faced with deciding what were the recruitment principles deemed relevant by the claimants (what constituted a “local descent group” locally) but he also had to contend with competing, often hostile, claims by groups with significantly different cultural knowledges and sociological practices.<sup>60</sup> The Belyuen claim angered many Larrakia. They believed the Belyuen were trying to steal their country, a country theirs by a Dreamtime mandate, or as some put it, a “blood-right” whereby blood descent from a Larrakia ancestor gave them ownership rights to Larrakia land irrespective of the density of economic or ceremonial practices in relationship to it. The Larrakia claim angered some Belyuen who believed many of the “town Larrakia” to be too genealogically and socially removed from the country and its “Aboriginal culture” to be “for it” in a way superior to themselves.

By the time new lawyers arrived in 1995 to discuss the rehearing of the claim with Belyuen, most people sitting in the meeting hall had heard all they had to say before, had watched history unfold, and had grown up or old with the Kenbi claim. The problems these lawyers outlined had been outlined by other lawyers when the claim was first run and rejected in 1989–90, and, before that, when the claim was first being prepared in 1974. So many lawyers, so many anthropologists, so many research consultants had reviewed these problems that the Belyuen and I sometimes passed the time in the oppressive heat remembering all their names and telling stories about their personal passions, sexual predilections, legal styles, fashion, and eating habits: “Beth tell the time when . . .” “Wulgamen [old lady] Nuki tell the time when . . .” We reviewed who among the Belyuen had talked in the last hearing or had gone on the endless proofing sessions, who had panicked before the “hard look” of the white lawyers and land commissioner, who had stumbled with the elaborate tape-recording apparatus, pinning the microphone upside down or thinking that it amplified rather than simply recorded and so mumbled inaudibly. We talked about people who had been crippled by shame and fear because of their

lack of knowledge, their poverty, their nonstandard English. We noted who had died fighting for this land, who had given up, who was still going. Who the Belyuen were as a community and as a set of individuals was now to some significant degree a fold of the practices, identifications, and discourses of the Kenbi claim.<sup>61</sup>

#### CONSPIRACY THEORIES

I brought with me to our meeting at the women’s center not only the various archival materials mentioned above but also a copy of the genealogies I had made based on senior Belyuen women and men’s repeated urging that I line up the families from Marriamu side to Kiyuk side, coast way in order to demonstrate how they had become one family, all Belyuen. If the social history of the Belyuen is examined from the vantage point of marriage alliances between *durlg* groups, a relatively delimited “family” does emerge from the multiple and multiply determined histories of sexual reproduction. This history supports Belyuen description of themselves as “one family” and illuminates why the men who sat with Woodward wished to lodge one large claim over the coastal lands stretching from the Cox Peninsula to Cape Dombey. Based on what the men and women I have worked with remember, between 1850 and 1950 marriage consolidated (“joined up”) proximate estates within a linguistically defined territory, followed by proximate language territories, then, through the marriages of Betty Bilawag and Mosec Manpurr, the sisters Agnes Alanga and Ester Djarim and the brothers Tom Lippo and Tom Barradjap, and Maudie Bennett to Tom Imabulg, the two ends and middles of this coastal landscape. Figure 14 presents a sketch model of this process.

It is a mistake, however, to view the figure as regimented by heterosexuality or that which the diagram diagrams to be heterosexual descent—although it is perfectly reasonable to describe them as a local descent group. That which the ancestors of present-day Belyuen figured and cohered was not so much sexual as textual in nature, a diagrammatic abstraction made possible by socially mediated understandings of spatial proximity, directionality, and seriality; that is, reproducing a group in the local context is primarily a matter of textuality not sexuality. Like the Duwun *wangga* reveals, and provides a basis for, arguments about the spiritual status of places and person (a pragmatically entailed architectonic palimpsest if people remain who know how to read and manipulate its pragmatic codes) so the semiotically mediated territory subtending these kinship and marriage diagrams reveals and provides

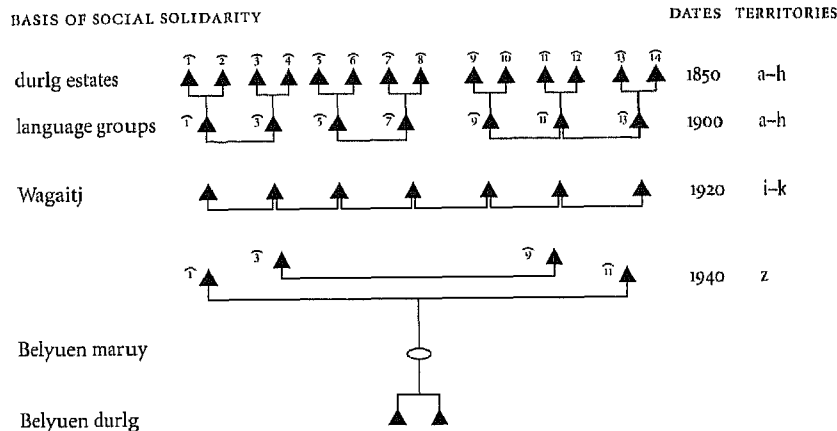
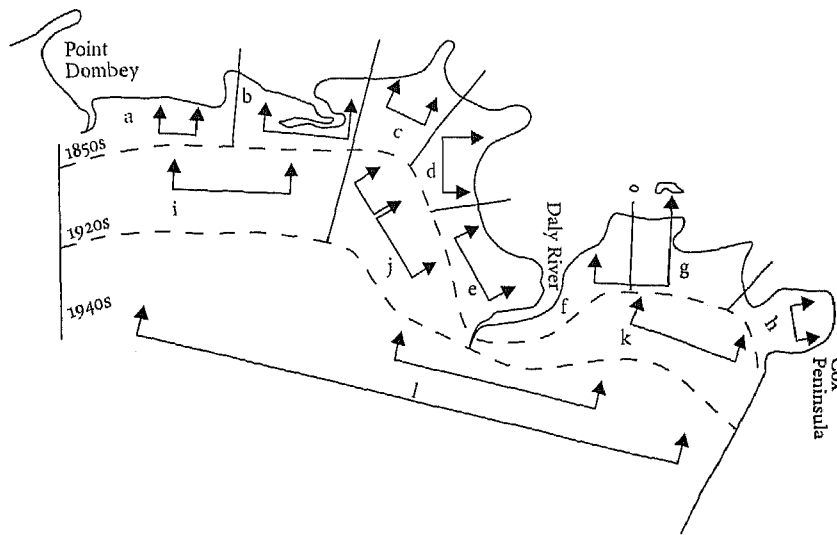


FIGURE 14. Textual transformations of territorial organization in the northwest coastal region, 1850–1940 (*durlg* into *maruy*).

the basis for understanding how to initialize, punctuate, and serialize the syntax of alliance. This spatial architecture of sexuality is not the only architecture (nor even the most important) for building a human component into country. But, like the felicity of the Duwun *wangga*, the felicity of these territorialized kinship diagrams now depends as much on the legislative and public commonsense status of “the family” abstracted from space as on the possible local semiotic architectures embedded in them.

It is a mistake, I think, to understand the fact of this large cognatic group as explaining how contemporary Belyuen came “to be.” Indeed, lawyers and anthropologists opposing the claim did not consider it sufficient explanation. Anthropologists representing other groups argued that the information in figure 14 was an artifact of the land claim process. If, opponents argued, one listened to the Belyuen describe how and why they belonged to local claim lands, one would hear the Belyuen referring to their conception (*maruy*) from the Belyuen waterhole, to their life history in the area, and to their ceremonial obligations, not to the history of their biologically human descent. In other words, the entire cognatic apparatus outlined in figure 14 only becomes “local” — Belyuen — on the basis of *maruy*, conception beliefs. Land Commissioner Michael Maurice found this argument inconceivable in the Ti Tree claim. He returned as a lawyer representing a Larrakia group during the second hearing, still unconvinced. In the following he cross-examines a Belyuen claimant during the 1995–96 hearing.

MR. MAURICE: Wadjigiyn, Kiyuk. You said that the people who belong to this country are the Belyuen and those three kids. Is that right? Why do those three kids belong to this country?

TREVOR BIANAMU: Well, they follow their mother’s footsteps, and their grandfather.

MR. MAURICE: Why do the Belyuen belong to this country?

TREVOR BIANAMU: Well, they born here, raised up here. Been living all our life here.<sup>62</sup>

Opponents to the Belyuen claim argued that “the Belyuen” were not *really* Belyuen as such but a cluster of presumptively patrilineal clan groups whose real estates lay south of the claim lands. *Maruy* and *durlg* were said to be contrastive and qualitatively different types of territorial markers.<sup>63</sup> Nor were critics wrong in their observations that neither the social organization of the Belyuen nor their relation to the Cox Peninsula is reducible to an ahistori-

cal, spatially abstracted diagram of heterosexual reproduction. Indeed, geographical time was critical to the formation of the Belyuen as such.

The marriage alliances diagrammed in figure 14 emerged in the context of two contingent geographical conditions: on the one hand, the coastal orientation and geographic proximity of the southern estates, and, on the other, the government consolidation of the Wagaitj onto the Delissaville reserve. It was onto these semiotically mediated spatial and temporal architectures, built by the ancestors of the Belyuen, that contemporary Belyuen, their lawyers, and I built a new supertext of their groupness and locality. This supertext depended on the Belyuen belief that the “Wagaitj” had been reformed into “Belyuen” through their *maruy* relation to Belyuen *durlg*. This argument demanded an understanding of *durlg* and *maruy* as simply temporal characterizations of formally equivalent concepts. Simply put: every *durlg* descent group is a *maruy* relation extended through the bodies of the next generation. And, it demanded understanding the transformation of *maruy* into *durlg* as always already a part of the traditional Wagaitj culture.

Thus, although Elkin would write that older Wagaitj men in the 1930s stated of their children: “‘Got no other *dork* or *maroi* for these, because they down here’ (that is, interned at Delissaville),”<sup>64</sup> by 1979 the senior members of the Danggalaba clan and of the Belyuen would refer to a Belyuen *maruy* as the basis of Belyuen territorial rights and obligations. The authors of the Kenbi Land Claim quoted Topsy Secretary: “We asked her (on 28 February 1979) if she approved of a joint claim by people from a number of linguistic and dialect groups to the claim area and she replied, ‘Yes, because they all were born at Delissaville. No matter that they Ami, Manda, Wadjigiyn, Kiyuk, they born at Delissaville.’”<sup>65</sup>

The structural elegance of the transformation of the southern Wagaitj into the Belyuen through the spatiotemporality of *durlg* and *maruy* was mirrored in the historical emergence of the form, location, and orientation of Belyuen men’s and women’s initiation rites. Edmund Leach’s argument that ritual should be “regarded as a statement in action” of the social organization of a community seems a particularly appropriate point to remember.<sup>66</sup> As the southern Wagaitj increasingly understood their children to be the *maruy* of Belyuen *durlg*, they reoriented their initiation practices away from southern territories and toward the waterhole.

MR. KEELY: All right. How central is this waterhole to the region?

HARRY SINGH: Very important in relation to initiates, young men’s ceremony,

their — after taking to Ngalwat, which is the manta ray Dreaming they are brought back here and washed in this particular waterhole here.

MR. KEELY: All right. So they wash her; do they wash in the salt water too?

HARRY SINGH: Yes. Taken there first and brought back here.

MR. KEELY: And what notion do the group here believe in as far as sweat is concerned? Can you explain how it works?

HARRY SINGH: Very strongest part of that washing ceremony introduces that, the sweat that goes back to the dreaming, gives them protection when they’re travelling, if they happen to travel by boat or out hunting there, so that sweat is very important in that respect.

MR. KEELY: When you bogey [bathe] in the waterhole, does your sweat just stop here or does it travel?

HARRY SINGH: No, it travels.

MR. KEELY: How does it travel?

HARRY SINGH: Travels through that, the hole, the tunnel underground.<sup>67</sup>

MR. MAURICE: Yes, if they come from somewhere else, how do you say those ancestors of yours were traditional owners for this country?

MARJORIE BILBIL: Well, they been here living long time, they participated in cultural, doing culture, all those things. Can I say something?

MR. MAURICE: Yes, please.

MARJORIE BILBIL: I’ll put it this way: If Tommy Lyons was gone, and there was no Wadjigiyn, Mandayanggal, Amiyanggal, Marriamu, Marritjabin [Marritjeban] people, we wouldn’t have that culture for our children.

MR. MAURICE: Well, which culture are you talking about?

MARJORIE BILBIL: Belyuen. Belyuen people.

MR. MAURICE: Does that culture come from Tommy Lyons?

MARJORIE BILBIL: No, it’s past, buried and finished.

MR. MAURICE: Passed from whom?

MARJORIE BILBIL: Old Tommy Lyons has gone.

MR. MAURICE: Passed it on?

MARJORIE BILBIL: No, he has gone and our people then took it over and—

MR. MAURICE: What did they take over?

MARJORIE BILBIL: Songs, telling stories about places, about all this Cox Peninsula, teaching us.

MR. MAURICE: Yes. Who did they take it over from?

MARJORIE BILBIL: Well, they been here long enough, all them Wadjigiyn people.

- MR. MAURICE: Yes. Who did they get it from? You said they took it over; who did they take it over from?
- MARJORIE BILBIL: Our people had their culture like, like Wadjigiyn, Manda, all those different language, all came one, together, as a family group.
- MR. MAURICE: Oh, I see. So is that culture which they brought from those other countries which they originally came from?
- MARJORIE BILBIL: No, here, at Belyuen, yes.
- MR. MAURICE: Here. Well, who had that culture in the first place?
- MARJORIE BILBIL: Everybody.
- MR. MAURICE: Who do you mean by everybody?
- MARJORIE BILBIL: Everybody that live here.
- MR. MAURICE: Yes. Are you talking about the six language groups that now live at Belyuen, are you?
- MARJORIE BILBIL: Yes.
- MR. MAURICE: But before they came here, who had that culture?
- MARJORIE BILBIL: The Larrakia and that old Tommy Lyons.<sup>68</sup>

But the ritual immersions to which Harry Singh, Marjorie Bilbil, and others refer are not simply symbolic statements. They are also corporeal acts, repeating and extending the physical intercourses between the ontological order of *Nguidjalag* and Belyuen such that Marjorie Bilbil can say that the “culture” to which she is referring is Belyuen in nature, form, and orientation.

At this point, it should be fairly obvious why we had gathered to translate the Belyuen *wangga* that Mosec sang at the end of “Death Rite for Mabalán.” We were hoping that the Belyuen *wangga* will contain a text that we can reform into a diagram whose shape would present an argument of a specific order and magnitude as suggested in figure 14.

If we, along with Allan Marett, had hoped that the Belyuen *wangga* would provide an unambiguous narrative or diagrammatic account of how the Wagaitj had been transformed into the Belyuen through the authorizing agency of a ritually invested relation between *nyuidj*, *maruy*, and *durlg*, we were to be sorely disappointed. After laborious work, and with Allan Marett’s and Lyz Ford’s additional research, the Belyuen song of Mosec Manpurr emerged as:

karra nyele wewe  
 yagarra nyele wewe  
 karra ngadjanung bende  
 be ngave ngave ngave ngave ya

karra nyele wewe  
 yagarra nyele wewe

Hey! nyele wewe  
 Oh, no! nyele wewe  
 Hey! for me now  
 Oh! I go, I go, I go, I go away there  
 Hey! nyele wewe  
 Oh, no! nyele wewe

The *wangga* did not provide *in the text* even the clear extensions of locale and kinship that the Duwun song had. On the tape Mosec Manpurr can be heard telling Colin Simpson and the nation that Belyuen gave him the Belyuen song in a dream (“I give you one song I get from Belyuen. Belyuen been give me this one song in dream”). But Belyuen is not named in the text; nor is any particular territorial relation between the place Belyuen and the people Belyuen narrativized; nor is any specific kinship relation between Mosec and Belyuen mentioned; nor is any grammatical marker indicating definitively who said “be ngave ngave ngave ngave ya.” *Karra! Yagarra!* Worse, “Death Rite for Mabalán” ends rather than begins with the Belyuen *wangga*. The first *wangga* heard on the tape is a lamentation of dislocation sung by the last member of a Emiyenggal *durlg* group, Bitop, an elderly man interned on the Delissaville settlement.

theme ngaburru  
 ngama nganitudu nu  
 ngaburru nu  
 theme ngana nthi mala  
 ngana nthi

Where did I come from  
 How will I track  
 my way back  
 How will I to go there long way  
 I go back somewhere

Even if Belyuen or Bitop had sung to our desire it is unclear at this point whether his tune would have been recognized within the framework of the LRA for several reasons. First, as noted above, although Toohey eventually reconsidered Stanner’s narrow definition of the “local descent group,” this ex-

pansion of the legally recognizable “family” did not displace a human heteronormative notion of descent and reproduction but merely speciated its form. The third land commissioner, Justice Maurice, who would eventually serve as legal counsel for the Laragiya tribal group during the 1995 hearing, would close the door on attempts to displace human descent with spiritual descent.

In any case, the *wangga* now appears in the shadow of another, foreboding ritual space that deauthorizes it, that resignifies it as a legitimate mode of territorialization. Long before we convened on the Belyuen veranda, anthropologists had differentiated “individual songs,” which *wangga* were understood to be, from clan songs and cult songs. Clan songs, but especially cult songs, lay in a doubly restricted archive. They are part of the historical archive discussed in chapters 2 and 3, a domain of a superanimated prohibitive interest, of men’s “high ceremonies” — Big Sunday and other services. These songs represent for nonindigenous and many indigenous people, the real “hard law” of Aboriginal culture. This real law drags local tradition from local conditions and inserts it into other national and transnational frames. In his expert evidence, Allan Marette was asked several times to comment on “accepted” anthropological distinctions and rankings of song genres in relation to territorial claims. For example, Mr. Dalrymple refers Marette to Alice Moyle’s research conducted in the 1960s.

MR. DALRYMPLE: I’ll come back to that in a little while. You’re familiar with Doctor Alice Moyle’s works on Aboriginal music and song?

PROF. MARETT: Yes.

MR. DALRYMPLE: Now she presents a fairly uncomplicated division of Aboriginal music into types, doesn’t she? . . . I’m not trying to say that this is a simplistic division but it certainly does characterise the songs into individual songs, clan songs, and cult songs.<sup>69</sup>

The fact of an anthropologically accepted ranking of song genre lessens the local practice of localization, no matter that the clan songs these lawyers seek are recognized as having been “buried” — that is, formally ended through local rituals. And, remember, some of these so-called cults and cult songs were stopped because of government intervention. But, although gone (“past, buried and finished”), these other ghost songs echoed throughout the hearing. These terrifying spectral images resignify *wangga* as soft law, as a precursor to the real thing, taunting this court as it had that of a previous generation with glimpses of what it truly desires — a superceded but still signifying an-

cient society shimmering there just beyond settler time and emergent national history.

MR. DALRYMPLE: As regards the use of *wangga* in initiation ceremonies, would you agree that the way that they’re used is as a precursor for the initiation itself? Something that happens earlier on, developing up towards the more formal initiation ceremony itself?

PROF. MARETT: Yes, that — in my experience that’s the case.

MR. DALRYMPLE: And it’s purpose is to set the stage in an open and public way?

PROF. MARETT: Well, I do suggest that it is rather more than that, than simply setting the stage in a rather public way.

MR. DALRYMPLE: I’ll leave that.<sup>70</sup>

#### THE FAILURE OF THE LOCAL

For the last time I return to the question I posed above: Why did we care about the tape recording sitting in front of us? Is it enough to refer to the fact of the law and instrumental reason to explain why we sat at the Belyuen women’s center struggling to make sense of this vast, fluttering archive? The force of liberal law is, I think, more insidious and cunning in its processes of ensnarement. As we waited for tea water to boil and for the tape to rewind, the women who I sat with meditated, as they often did, on the consequences of failing in our discursive endeavor, of “being wrong,” of “not fitting the law,” of making “mistakes.” As she often did, Marjorie Bilbil asked me whether, in the event that they failed to convince the land commissioner that they were the traditional owners of the land, the entire community would be sent to southern countries. From these women’s perspective, this seemingly fantastic communal apocalypse is not so far-fetched. Soon after the Japanese bombing of Darwin in 1942, the government transported the community to relocation camps in Katherine. Closer to the present, these women have watched other communities displaced in the wake of lost or disputed land claims. The Wagait dispute, the Kamu and Malakmalak dispute, the Kungwarakang and Maranunggu dispute: these are the well-known names of current, bitter intra-Aboriginal arguments, arguments battled out in courts and bush camps, over what a “traditional Aboriginal owner” entails, over who are the “proper” traditional Aboriginal owners for specific regions.

In other words, it is not simply the fact of the law’s existence that explains

why the women and I sat on the veranda of the women's center. Rather, the anxiety that material and social insecurity generates drives these women into a legal process, attaches their hopes to a legal text and practice, to juridical forms and abstractions, and influences the syntax of their language of success and failures. The structural nature of local poverty provides other incentives for moving toward the law. What happens if we fail? When asked by a lawyer why she and her family did not "pack up and go back" to Banagula and Mabalán, two sites in Emi and Wadjgiyn country, Ruby Yarrowin dryly answered, "Only birrrrrd that place, only pig, only pig and birrrrrd boss that place today." Those who were present laugh when they remember the story, savoring the long, drawn-out onomatopoeic soaring of Ruby Yarrowin's "birrrrrd." But they also ponder the implications of Ruby Yarrowin's answer. How will they live in a place without hospitals or houses, without plumbing, electricity, or roads during the long wet season? Where would Betty Bilawag go, chained as she is (was) to a respirator? Can they point to these needs and desires in a claim hearing without deauthorizing their status as traditional Aboriginal subjects? What would happen to ceremony for this land?

But the functional force of the law depends not merely on material motivations. It also depends on ordinary human emotions and desires to be recognized as having personal and social worth and value. Ruby Yarrowin, Ester Djarem, Alice Djarug, Marjorie Bilbil, and Gracie Bitbin were as eager to listen to "Death Rite for Mabalán" in order to test their own hermeneutic skills as to secure their and their children's material future. They remembered Mosec as a *djewalabag*, a "clever man," a man steeped in sacred law. They remembered national and international celebrities and media traveling to Belyuen to record his singing and dancing.<sup>71</sup> They shared camps, food, argument—history—with him. And they remembered other things, things not recorded on tape—for example, their parents' cleverness in joining up and fitting together the disparate, often disputing groups thrust together at Delissaville. These women who sat with me sought to derive value for themselves in a similar way, piecing together black and white land and law, people and countryside, in order to build a people into a place. And they measured their own personal worth in part against their skill in doing so.

And me? I also measured my worth against this vast national archive, against my anthropological skills, against my guilt for not having devoted more time to genealogical analysis in 1989. I worried that my suspicion of a model of social anthropology has harmed the women sitting before me, that the model of land tenure I planned to propose may have serious negative

ramifications on other claims in the region; that I will fight the legal hegemony of one anthropological tradition only to install another. But I do not simply worry, I also want. As much as these women want to be the thing, a local descent group, on which their and the imagined futures of their families depend, I want to give it to them—in part so that I can repay a debt, in part because I wish for them to recognize my value, in part so that I was the one who finally figured out the great Kenbi puzzle. All these noble and banal desires drive me like them deeper into legal forms, values, processes. Sure, I also attempt to refigure the parameters of national law, but as I am more or less influenced by these legal forms, more or less distracted by the social diagrams I am able to extract from historical processes, I am more or less worried about the social reality of this thing, this cognatic descent group, these two principles of land tenure—*durlg* and *maruy*—that I have lifted out of the multitude of corporeal intercourses, human intimacies, and social travails that compose Wagaitj-Belyuen histories.

But even these necessarily ordinary desires cannot account for why we turn to this tape, why we seek our argument in Mosec's song, in the archive of the nation. To understand why we turn to an archived localization returns us to a matter of law if not a matter reducible to the law—the procedures for constituting valid, unmotivated, and objective evidence in liberal state contexts, the discursive forms that validate argument as truth. Two points seem relevant. First, one often-unarticulated condition of legally felicitous evidence is that the principle operating to determine the social group must itself be determinate in two specific senses: first, that the principle of group cohesion and membership must allow anyone to be able to determine the group on the basis of that principle and to determine it in such a way that a judgment of ownership is uncontested, certain, concrete, decontextual—in short, monumentalizing abstractions.<sup>72</sup> (Leave that business of cleverness; of "line-im up," "might be something." Just tell us what it is now.) Second, while a number of land commissioners have recognized the flexibility of Aboriginal tradition, the Australian High Court has ruled that "the governing descent principle in operation in a particular group" cannot be "changed by them at whim so as to fit the circumstances of a land claim."<sup>73</sup> Thus, we sit and face the archived past because we need someone other than ourselves to repeat what we desire, but someone whose words cannot be tarnished by the present because they are unmotivated by the present, by our desires to be worthy, to live. *Karra!* We point to the Belyuen *wangga*, to Elkin, to Edmund Leach, to all those who never would have imagined this claim, or us. *Gameyi* ("he said,

it happened"). This tape was there (-*ya*). *Yagarra!* In other words, we alienate our practices through a national archive in such a way as to make our motivations mysteriously disappear, and make the diagrams we produce appear detachable from the very context that produced them, to be the unmediated force of a subjectless history of tradition.

But even if the law recognized spiritual descent as a principle of descent deemed relevant by the claimants, the bureaucratic nature of the land councils might find it difficult to reconcile this form of territoriality with its legislative mandate to negotiate contracts and capital endeavors on Aboriginal lands. Land councils are charged with passing out royalty payments and negotiating multiyear contracts with small business and multinational corporations. What type of contract would emerge at the interstices of capital and Belyuen social space? And what of other social institutions now constituted on the basis of the commonsense machinery of the local descent group? After all, the local descent group is no longer merely an anthropological object, or fact of law. Today, this conceptual object provides the skeletal structure of progressive policies of welfare distribution, health care, and housing. The local descent group *is* now, no matter whether it was not then. Finally, the hyperpragmatic nature of this text makes figuring the interpretation of it as "disinterested" difficult. This disinterested figuration is, however, essential to the manifestation of truth in Australian courts of law.

Because there cannot be an interested subject writing Aboriginal history, opponents of the Belyuen claim repeatedly dragged this subject into court, especially during the expert evidence of Allan Marett. Again and again, lawyers representing other Aboriginal groups tainted his interpretation of the territorial significance of *wangga* by linking it to present-day Belyuen persons. The pragmatic nature of *wangga*—the lack of a recognizable narrative and semantic content and structure—deauthorized its viability for producing a locally socially felicitous place. Take, for example, questions that Blowes and Dalrymple put to Marett.<sup>74</sup> Dalrymple refers to a local *wangga* about a buffalo dancing at Benindjila, now the site of tourist resort on the northwest coast of the peninsula, where the *wangga* is sometimes performed. As with Marett, most Belyuen women and men have described the buffalo to me as a *nyuidj*. But the *wangga* does not specify the buffalo as either "normal" animal or *nyuidj*. Blowes refers to the Belyuen song we have been trying to translate.

MR. DALRYMPLE: If in fact—if it were, in fact, the case that this buffalo song is about a buffalo hunt in the vicinity of Benindjila, then while certainly it

has a geographical reference, it wouldn't indicate any particular spiritual attachment to country, would it?

PROF. MARETT: No, but all the information that—well, let me backtrack a minute. One has to be—one has to be aware of the fact that with almost all Aboriginal songs there are levels of exegesis. What I would suggest is that the hunting level, which is the level that gets tied up with the presentation of the songs to tourists, is actually very much—what Catherine Ellis actually calls a "false front."

It actually obscures what is the real meaning of the text, which I have absolutely no doubt about, having spent a lot of time talking about this text with people who have rights to sing it. The real—the real meaning has to do with the appearance of the buffalo as a *nguidj*. The buffalo is not a normal buffalo, the buffalo was a *nguidj*. So it's you know—

MR. DALRYMPLE: And that's very much the understanding that you've derived.

PROF. MARETT: Mm.

MR. DALRYMPLE: Is the understanding that you've been given in the recent past, is that right?

PROF. MARETT: Yes, that's the—within the last year.<sup>75</sup>

MR. BLOWES: I won't take that one any further. On page 11, you begin—you go through the text to page examples. The first reference you had at example one was about Mosec Manpurr's song of the—for the Belyuen waterhole. Take you to the text of that song. The transcribed portion of the song reads in its entirety "as for me, I'm going back now."

PROF. MARETT: Yes.

MR. BLOWES: And I think elsewhere you said—you referred to on page 5 to the same *wangga*, and you made reference there to Elkin. So when did you get this information from Ruby Yarrowin and others that you refer to there?

PROF. MARETT: Last year.

MR. BLOWES: Last year, when?

PROF. MARETT: July. Or possibly August.

MR. BLOWES: Now the song itself doesn't refer to the Belyuen waterhole.

PROF. MARETT: No.<sup>76</sup>

Anxious and fascinated we turn to and are transfixed by this thing in front of us, its spinning sprockets and thin brown tape, and the song Mosec promises to sing. Maybe he will sing a song undermining what we claim. But maybe, just maybe, Mosec will sing a song Belyuen gave him for us, a song that will



make our present desires “traditiona”: before all this, before us, before. The reader now knows the outcome: what the songs actually were, what we are. He disappointed us. The songs were disappointing. We disappointed ourselves. The description of Mosec, of these songs, of ourselves as disappointing suggests the delicacy with which local affective structures are embedded in publicly mediated judgment. These songs did not disappoint or upset us. They were disappointed. They were upset. They were transformed into a quality, a mood, produced as a site of failure, not simply by the explicit demands of statutory law but by subtler expectations about how narratives should work through elaborated decontextualizable semantic content, rather than multi-level contextualizable pragmatic form. And the more these women identify with this cultural product, the more they are not only disappointed by the *wangga* but are disappointed in themselves. Like the text itself, they are produced as a site of failure no matter their extraordinary resilient histories, no matter the mental and physical labor that these histories, these texts, and they themselves represent.

By wishing Mosec had sung otherwise, in digging up and translating the texts, these women and I were not just gathering “proof” that what we say is true. We were not simply engaged in an evidential adventure. Instead, we were engaged in the delicate processes by which local identities are constituted and mediated by the coercive politics of liberal recognition, its technology of the archive, its institutions of force and desire, simple desires like to live and be recognized as being worthy and having personal and social value. In other words, we were engaged in the delicate extensions and reenforcements of liberal legal ideology—that formal and informal legal hearings are primarily dispassionate, objective, noncontextual judgments of social facts rather than the primary means by which social facts are produced. In this rather ordinary archival moment we see the dual processes by which, at once and the same time, translocal law and material structures work in and through local personal passions and optimisms even as the conditions of their translocal nature are erased.

The extraordinary delicacy with which local protocols for evidential claims are worked through state protocols for evidence should not blind us to the power of liberal law, to the cunning of current forms of liberal recognition. These simple desires and dramatic coercions lodge the social machinery of heterosexuality into local structures of language and corporeal practice, displacing other forms of corporeal intercourse as infelicitous, failed social attachments. To pay attention to these delicate restructurings is not to deny

the mediating nature of the local, but merely to acknowledge that these delicate calibrations occur in vastly different and multiply structured regimes of power.

The irony of Olney’s evaluation of the Belyuen claim in 1989 as generally lacking in conviction derives from his assumption that the source of this lack is local and traditional, that the truth of local social history can be read off this lack. Instead, the Belyuen reluctance, their “very little enthusiasm,” is an accurate reading of the hegemonic force of heterosexual descent in the determination of national justice, citizenry rights, material restitution, and subjective constitution.

## EPILOGUE

theme ngaburru  
ngama nganitudu nu  
ngaburru nu  
theme ngana nthi mala  
ngana nthi

Where did I come from  
How will I track  
my way back  
How will I to go there long way  
I go back somewhere

Of all the *wangga* on the tape, “Death Rite for Mabalán,” Bitop’s *wangga* was particularly hard to hear and translate. A few days after we listened to the tape, I took many of these same women to Darwin to shop. In the afternoon I went to a meeting at the Northern Land Council. When I returned in the evening to pick up everyone, Marjorie Bilbil told me that while she was shopping she heard Bitop singing a clearer rendition on a tape being played in a nearby store. Perhaps, she suggested, I could buy it so that we could study it. Because I was worried how Bitop’s lamentation of dislocation would play in court, I did.

Bitop’s song is reproduced as “Nomad,” the feature first track on a tape whose title is also Nomad (see fig. 16). The tape consists of a collection of indigenous Australian, African, and Native American spiritual texts, mixed and synthesized with contemporary percussion instruments and produced in 1994 by Australian Music International and Yalumba Music, with production

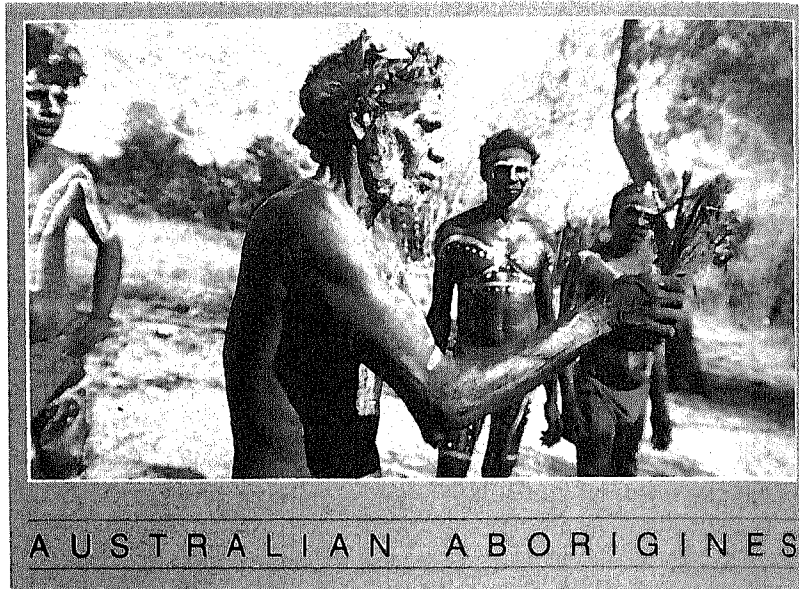


FIGURE 15. Australian Aborigines: An Aborigine performs the ancient skill of making fire. (Courtesy of Murray Views, Gympie, Queensland.)

and distribution centers in New York City and Melbourne. In the liner notes, the producers state, as had their predecessors in the 1930s, their “gratitude . . . to early explorers, missionaries and others who loved the Aboriginal people and saw a richness in their law and tradition. Without these people, a wealth of cultural heritage would have been lost forever.” The music on the tape is “dedicated to the support and rebuilding of the Aboriginal culture so that it can be free and respected in the ‘modern world.’”<sup>77</sup>

There is something wonderfully clear about these embracing frames. The unique sounds and rhythms of the didjeridu are no longer merely constitutive of a settler modernity, a new multicultural form of nationalism, but the circulation of transnational capital. As business, nation, and law chase economic capital, national fantasy, and global humanities, they grind out ever more artifacts, archives, and histories through which locals and capital will emerge. When I began this chapter by describing the women sitting on the veranda as the “remainders” of local culture I used this term advisedly. What was once the nation’s cultural debris is now the local’s cultural mines. These women are the last fluent speakers of Emiyenggal, Mentha, and Wadjigiyn—the languages of the *wangga*. But the very linguistic expertise that these women will

use to unlock the riddle of the Belyuen *wangga* shines a bright light on the tenuous, even scandalous, nature of their land claim. Emi, Mentha, Wadjigiyn, Marriamu: these are languages of countries to the south. Most anthropologists, lawyers, the interested public, and Aboriginal persons believe that the historical “language” of this country was Larrakia.

As we drove back to Belyuen we listened to Bitop sing accompanied by hybrid New Age and techno rhythms. Later, on 30 May 1999, flying back to Belyuen, this same song played on the Qanta Airline intercom. This pirated version of “Death Rite for Mabalan” never appeared in court nor did a postcard showing Ruby Yarrowin’s father performing the ancient skill of making fire (fig. 15). But these texts do provide the cultural capital that can be transformed into economic capital by businesses who mine the national archive for reasons other than my own or those of the Belyuen women.

source *Development in the East Kimberley, Western Australia* (Nedlands: University of Western Australia Press, 1990). See also Paul Kauffman, *Wik, Mining, and Aborigines* (Sydney: Allen and Unwin, 1998).

- 74 James Scott, *Weapons of the Weak* (New Haven: Yale University Press, 1986).
- 75 While Drucilla Cornell's discussion of the normative grounding of juridical interpretation in implicit and explicit references to "the good" has been helpful to my understanding of the technology of discrimination, more attention needs to be paid to the traffic of dominant hegemonic projects in legal shame. See Drucilla Cornell, "From the Lighthouse: The Promise of Redemption and the Possibility of Legal Interpretation," *Cardozo Law Review* 11.5-6 (1990): 1688.
- 76 Brown, "Wounded Attachments," 53.
- 77 Several critical essays on identity, difference, and democracy have critically attended to the politics of "wounded" subjects in late modern liberal societies. See, for instance, Brown, "Wounded Attachments"; Berlant, "The Subject of True Feeling," in *Cultural Pluralism, Identity Politics, and the Law*, ed. Austin Sarat and Thomas R. Kearns (Ann Arbor: University of Michigan Press, 1999), 49-84; Fish, "Boutique Multiculturalism"; and Trouillot, "Abortive Rituals."

#### 5 / THE POETICS OF GHOSTS: SOCIAL REPRODUCTION IN THE ARCHIVE OF THE NATION

- 1 Arjun Appadurai, "The Production of Locality," in *Modernity at Large* (Minneapolis: University of Minnesota Press, 1996), 178-99; Michael Silverstein, "Contemporary Transformations of Local Language Communities," *Annual Review of Anthropology* 27 (1998): 401-26.
- 2 "Death Rite for Mabalang," *Australian Walkabout Show*, ABC radio program, 1948.
- 3 For the concept of "rigid designator," see Saul Kripke, *Meaning and Necessity* (1972; Cambridge, Mass.: Harvard University Press, 1980).
- 4 For Peirce, subject terms and proper names are indices. Thus the "whole burden of the sign," including proper names, "must be ascertained, not by closer examination of the utterance but by collateral observations of the utterer" (Peirce, "Pragmatism," 406-7). See also Benjamin Lee, *Talking Heads: Language, Metalanguage, and the Semiotics of Subjectivity* (Durham: Duke University Press, 1997), esp. 98-99.
- 5 This meaning of *durlg* is also recorded by Elkin in his "Ngirawat, or the Sharing of Names in the Wagaitj Tribe, Northern Australia," in *Sonderdruck Aus Beitrage Zue Gesellungs und Volkerwissenschaft* (Berlin: Verlag Bebr. Mann, 1950), 67-81.
- 6 For discussion of these sign-process, see Stanner, "Religion, Totemism, and Symbolism"; Fred Myers, *Pintupi Country, Pintupi Selves: Sentiment, Place, and Politics among Western Desert Aborigines* (Washington, D.C.: Smithsonian Institution Press, 1986); Deborah Bird Rose, *Dingo Makes Us Human: Life and Land in an Aboriginal Australian Culture* (Cambridge, Eng.: Cambridge University Press, 1992); and Ian Keen, *Knowledge and Secrecy in an Aboriginal Religion* (Oxford: Oxford University Press, 1997).
- 7 Colin Simpson, *Adam in Ochre* (Sydney: Angus and Robertson, 1957), 168.

- 8 *Ibid.*, 171.
- 9 Partington, *Hasluck versus Coombs*. Simpson also mentions Hasluck in *Adam in Ochre*, 187.
- 10 Simpson, *Adam in Ochre*, 164.
- 11 Elkin, "Ngirawat," 77.
- 12 *The Elkin Archives*, University of Sydney. See Folder 1, Box 18, Item 26.
- 13 A. P. Elkin, "Arnhem Land Music," *Oceania* 26.2 (1955): 146.
- 14 *Ibid.*
- 15 Roger M. Keesing, *Kin Groups and Social Structure* (Fort Worth: Harcourt Brace Jovanovich College Publishers, 1975), 148, quoted in Peter Sutton, *Native Title and the Descent of Rights* (Perth: National Native Title Tribunal, 1998), 25. Also influential is Harold Scheffler's understanding of descent, descent-phrased constructs, and descent-phrased rules for group understanding, even though Scheffler does not consider Australian indigenous forms of social organization to be based on descent but rather on affiliation. See Harold W. Scheffler, *Australian Kinship Classification* (Cambridge, Eng.: Cambridge University Press, 1978).
- 16 W. H. R. Rivers, "The Genealogical Method of Anthropological Inquiry," *Sociological Review* 3.1 (1910): 1-12; see also Elizabeth A. Povinelli, "Notes on Gridlock: Genealogy, Intimacy, Sexuality," *Public Culture* 14.1 (2002): 215-38.
- 17 See the discussion in 15.
- 18 The territory to which the descent group's totem is found is usually referred to as an estate, thus the phrase "an estate group." For a review of the study of Australian Aboriginal kinship, see Ian Keen, "Twenty-Five Years of Aboriginal Kinship Studies," in *Social Anthropology and Australian Aboriginal Studies: A Contemporary Overview*, ed. Ronald Berndt and R. Tonkinson (Canberra: Aboriginal Studies Press, 1988), 79-123.
- 19 L. R. Hiatt, *Kinship and Conflict* (Canberra: Australian National University, 1965), 20.
- 20 Ian Keen has described the relationship between the definition of "traditional Aboriginal owners" and "the 'orthodox model' of Aboriginal land tenure," in his "A Question of Interpretation: The Definition of 'Traditional Aboriginal Owners' in the Aboriginal Land Rights (NT) Act," in *Aboriginal Land-Owners: Contemporary Issues in the Determination of Traditional Aboriginal Land Ownership*, ed. L. R. Hiatt (Sydney: University of Sydney, 1984), 24-45. See, more recently, L. R. Hiatt, *Arguments about Aborigines, Australia, and the Evolution of Social Anthropology* (Cambridge, Eng.: Cambridge University Press, 1996).
- 21 Hiatt, *Kinship and Conflict*, 18.
- 22 A. P. Elkin, "The Complexity of Social Organization in Arnhem Land," *Southwestern Journal of Anthropology* 6.1 (1950): 1-20.
- 23 Allan Marett, "Wangga Songs of Northwest Australia: Reflections on the Performance of Aboriginal Music at SIMS 88," *Musicology Australia* 15 (1991): 37-46; Allan Marett, "Wangga: Socially Powerful Songs?" *The World of Music* 1 (1994): 67-81; Allan Marett and JoAnne Page, "Interrelations between Music and Dance in a Wangga from Northwest Australian," in *Essence of Singing and the Substance of*

- Song, *Recent Responses to the Aboriginal Performing Arts and Other Essays in Honour of Catherine Ellis*, ed. Linda Barwick, Allan Marett, and Guy Turnstill (Sydney: University of Sydney Press, 1995), 27–38.
- 24 Elkin, “Ngirawat,” 76.
- 25 Allan Marett has mapped a genealogy of human authorization for the country surrounding Belyuen.
- 26 Gilles Deleuze and Felix Guattari, *Kafka: Toward a Minor Literature*, trans. Dana Polan (Minneapolis: University of Minnesota Press, 1986).
- 27 “Death Rite for Mabalan.”
- 28 “Death Rite for Mabalan” describes the voice of Eliang as the effect of pain caused by *wingmalang*, but might also have been voice of the *wingmalang* pained by Moseck’s trickery. Elizabeth A. Povinelli, “‘Might Be Something’: The Language of Indeterminacy in Australian Aboriginal Land Use,” *Man* 28.4 (1993): 679–704.
- 29 John Lucy has noted: “In a like manner, structural parallelism in poetry sets up formal equivalences that tell listeners that certain things are to be compared with one another” (“Reflexive Language and the Human Disciplines,” in *Reflexive Language: Reported Speech and Metapragmatics*, ed. John Lucy [Cambridge, Eng.: Cambridge University Press, 1993], 10).
- 30 *Aboriginal Land Rights (Northern Territory) Act, 1976* (Canberra: Australian Government Printer, 30 April 1992).
- 31 The land on which the Belyuen community is located is already defined as Aboriginal land under the *Aboriginal Land Rights (Northern Territory) Act, 1976*.
- 32 The *Aboriginal Land Rights (Northern Territory) Act, 1976*, also stipulates the traditional Aboriginal owner must be entitled to forage as of right, but this entitlement has never been the basis of a decision.
- 33 The *Aboriginal Land Rights (Northern Territory) Act, 1976*, and the *Native Title Act, (Commonwealth) 1993*, stipulate that every claim be accompanied by an anthropological report.
- 34 *Australian Parliamentary Hansard, House of Representatives*, 4 June 1976, p. 3082.
- 35 See C. Athanasiou, “Land Rights or Native Title,” *Indigenous Law Review* 4.12 (1998): 14–15.
- 36 Since then a number of land commissioners have accepted spiritual descent from a mythic ancestor, with some stating that claimants must also be members of a human descent group. Dr. M. Reay in the Borroloola Land Claim described spiritual descent as the basis of all forms of descent from an Aboriginal perspective: “Aborigines collapse history and assimilate the remote Dreamtime into the present. Transformations of quasi-ancestral beings are visible in the landscape. Ceremonies re-enact their adventures and their paths are recorded in song. The remote past is ever present. An individual’s connection to it is his Dreamings and the land in which his Dreamings are located. The quasi-ancestral beings he shares with father and the land establish his descent through spirits located in that land from the first people those beings originated” (*Borroloola Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Toohey* [Canberra: Australian Publishing Service, 1978], exhibit 45). In the Uluru Land Claim report, Toohey accepted that a claimant

- could inherit rights from the estate in which he or she was born: “In that case the rights are in a sense inherited because they derive from the ancestral being who becomes the individual’s personal tjukurr or tjukurrpa, his dreaming or totem. Thus a child may belong to two or even three estates. He does so actually not potentially. But the rights are inchoate: more is required before they can be exercised in respect to any one estate” (*Uluru Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Toohey* [Canberra: Australian Publishing Service, 1979], para. 27). Justice Kearney stated that this type of kirda link gives no more than a secondary interest in the Yulumu estate and is not passed on to children, *Uluru Land Claim* (para. 46). Justice Toohey argued in the Alyawarra and Kaititja Land Claim report that conception dreaming provides only individual not group rights to country (*Alyawarra and Kaititja Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Toohey* [Canberra: Australian Publishing Service, 1978], paras. 28, 29). However, he accepted Stanner’s argument that every member of the patriline is in some sense animated by the “patri-spirit” of the clan to which he is affiliated (*ibid.*, para. 45). In the Warlpiri, Kukatja, and Ngarti Land Claim report, Kearney once again addressed spiritual descent, finding that persons conceived on a Dreaming track within the claimant country are linked with the country, being animated by its spirit; and, given this spiritual connection to the country, if the persons reside with other (descent) members of the group, acquire the necessary knowledge of the Dreamings and sites, perform the required duties, and are recognized by other members of the group they can be found to be members of the local descent group (*Warlpiri, Kukatja, and Ngarti Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Kearney* [Canberra: Australian Publishing Service, 1985], paras. 30, 31).
- 37 *Nicholson River (Waanyi/Gaeawa) Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Kearney* (Canberra: Australian Publishing Service, 1985), para. 57.
- 38 *Ibid.*, para. 68.
- 39 *Ibid.*, para. 63. Kearney also noted in Nicholson River report that because Dr. Reay was dealing in Borroloola Land Claim only with patrilineal descent groups, she limited her discussion to the “father” (see *Nicholson River Land Claim*, para. 66). Dr. Chase commented more broadly in Nicholson River that “the positing of a common descent among people from a mythic ancestor in any case presents no problems . . . the phenomenon is commonly found by field workers elsewhere in Australia. In Cape York Peninsula, for example, the term for dreamings, or totems, is a derivative of the term for father’s father, and in societies with shallow generational depth in genealogies, the generations immediately above that of grandfathers are commonly fused into the time period of mythic ancestors and their activities” (*Nicholson River Land Claim*, exhibit 58, p. 12). In the Cox River Land Claim report, Kearney found that persons who based their inclusion in a local descent group solely on vaguely phrased relations through the Dreaming or through ceremony should be excluded. They must in addition be related to the relevant local land-holding group by a principle of descent (*Cox River (Alawa-Ngandji)*

- Land Claim, Report by the Aboriginal Land Claim Commissioner, Mr. Justice Kearney* [Canberra: Australian Publishing Service, 1984]. In the Mount Allan Land Claim report, Mr. Justice Kearney addressed the question of whether “spiritual genealogy” would satisfy the requirements of local descent group under the LRA. Kearney first noted Toohey’s finding that a local descent group may be recruited on a principle of descent deemed relevant by the claimants (*Mount Allan Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Kearney* [Canberra: Australian Publishing Service, 1985], para. 48). Kearney stated that “perceived descent from a common mythic ancestor is a principle of descent which conveys the notion of common ancestry” (*Mount Allan Land Claim*, para. 48). In the case of Judy Napaljarri, and Tiger Japanangla and his siblings, there was no evidence of any actual genealogical link between them and members of the local descent group for the Yulumu and Ngarlu estates (*Mount Allan Land Claim*, para 45). Moreover, Tiger Japanangla’s father’s estate was located over one hundred kilometers to the west of the claim land. Tiger Japanangla was, nevertheless, found to satisfy the definition of a traditional Aboriginal owner because the claimants deemed as relevant a principle of a shared “spiritual genealogical link” to the local descent group and claim land on the basis of a shared descent from a common honey ant ancestor. Dr. Peterson described this spiritual genealogy in the following way: “All Honey Ant kirda groups that are in contact and know each other and that lie on common dreaming tracks . . . are seen to be related as from common Honey Ant ancestors—that all the Honey Ant ancestors are themselves related” (*Mount Allan Land Claim*, 134).
- 40 *Timber Creek Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Maurice* (Canberra: Australian Publishing Service, 1985).
- 41 *Ti Tree Station Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Maurice* (Canberra: Australian Publishing Service, 1987), para. 99.
- 42 *Ibid.*, para. 96.
- 43 *Ibid.*, para. 100.
- 44 In his report on the Lander, Warlpiri, and Anmatjirra Land Claim to the Willowra Pastoral Lease, Toohey stated: “The words ‘local,’ ‘descent’ and ‘group’ are ordinary English words to which a meaning can be attached, given a context which in this case is the Land Rights Act. The matter should not be approached with some preconceived model in mind to which the evidence must accommodate itself. Rather it is a matter of the conclusions to be drawn from the evidence. A local descent group may be ‘recruited on a principle of descent deemed relevant by claimants.’ If the evidence so dictates, a local descent group may be unilineal or non-unilineal” (*Lander, Warlpiri, Anmatjirra Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Toohey* [Canberra: Australian Publishing Service, 1980], para. 89).
- 45 *Timber Creek Land Claim*, para. 92.
- 46 *Northern Land Council and Others v. Aboriginal Land Commissioner and Another, Australian Law Review* 105 (1992): 539, para. 60; See also *Finniss River Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Toohey* (Canberra: Australian Publishing Service, 1981), para. 161.
- 47 *Kenbi (Cox Peninsula) Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Olney* (Canberra: Australian Publishing Service, 1991), para. 7.2.3.
- 48 Maria Brandl, Adrienne Haritos, and Michael Walsh, *Kenbi Land Claim* (Darwin: Northern Land Council, 1979), 152.
- 49 See Elizabeth A. Povinelli, *Belyuen Traditional Aboriginal Owners (Kenbi Land Claim)* (Darwin: Northern Land Council, 1996).
- 50 See Povinelli, *Belyuen Traditional Aboriginal Owners*.
- 51 Brandl, Haritos, and Walsh, *Kenbi Land Claim*, 31.
- 52 For a concise history of the political events that led to the establishment of Woodward’s Commission and the narrowing of its recommendations, see Graham Neate, *Aboriginal Land Rights Law in the Northern Territory* (Chippendale, NSW: Alternative Publishing Cooperative, 1989), esp. 1–40.
- 53 *Kenbi (Cox Peninsula) Land Claim*, para. 7.2.4.
- 54 *Kenbi Transcripts* (Indooroopilly: Transcripts Australia, 1995–1998), 7061.
- 55 Olney reviewed at length legal precedent for viewing the “local descent group,” especially discussion of the Woodward report before parliament: “The paragraphs from the first Woodward report which are reproduced as Appendix A to this report draw a clear distinction in Aboriginal social organisation between a ‘tribe’ or ‘linguistic group’ on the one hand, and a ‘local descent group’ on the other. Given that the form of subsection 50 (4) has its origin in clause 27 of the draft Bill in the second Woodward report, there is a strong inference to be drawn that the meaning to be attributed to ‘tribe’ or ‘linguistic group’ was quite different from the idea of a ‘local descent group’” (*Kenbi [Cox Peninsula] Land Claim* [Australian Publishing Service, 1991], paras. 8.40–8.49).
- 57 *Ibid.*, para. 9.6.
- 58 As an anthropologist opposing the Belyuen claim pointed out in the second hearing.
- 59 The Supreme Court hearing an appeal of his findings ruled that Olney had erred as a matter of law—he had imposed an outdated anthropological model on local forms of social recruitment rather than considering, as required by law, recruitment principles “deemed relevant by the claimants”: “The point is that the principle of descent will be one that is recognized as applying in respect of the particular group. Further, there is no reason the particular principle of descent traditionally operating may not change over time.” The Supreme Court advised future land commissioners to first look at contemporary local beliefs, not at anthropological models, and at the degree they have deviated from traditional (read: precontact) beliefs and practices, and then see whether they fall within the meaning and intentions of the Aboriginal Land Rights Act (and likewise, for claims lodged under the *Native Title Act*, 1993. The court also reiterated that the act should be “broadly construed so as to give effect to the beneficial purposes of the Act.” But the Supreme Court did not overturn the direction that the assessment (and through it power) flowed. By defining a “local descent group” as a subdivision of a linguistic or dialect group with clan (or “totemic”) ties to particular sacred sites on the land claimed, it entrenched

- the a priori status of national definitions of sociality functioning before the law enters the locale of its discriminations. See *Northern Land Council and Others v. Aboriginal Land Commissioner and Another*, 539.
- 60 The land commissioner, Justice Gray, had not as of the writing of this essay written his report on traditional Aboriginal ownership in the Kenbi Land Claim.
- 61 Others have noted the differential effects of hegemonic formations on social groups. See the still-compelling analysis of family in France in Jacques Donzelot, *Policing of Families*, trans. Robert Hurley (New York: Pantheon Books, 1979).
- 62 *Kenbi Transcripts*, 5294.
- 63 Peter Sutton, a senior anthropologist representing one of the Laragiya claimant groups (but having done no ethnographic research among the Belyuen), insisted that the land commissioner distinguish between territorial rights based on bloodlines, a principle of territoriality he considered "traditional," and the personal ties to country based on historical connections he considered "historical." In his view the Belyuen asserted interests "in ancestral country on one basis" (*durlg*) "and the country of their—for most of them, I would think, their strongest emotional and personal—personalized attachments" on another basis" (*maruy*) (*Kenbi Transcripts*, 6578).
- 64 A. P. Elkin, "Ngirawat, or the sharing of Names in the Wagalt; tribe, Northern Australia," 68.
- 65 Brandl, Haritos, and Walsh, *Kenbi Land Claim*, 161.
- 66 Edmund Leach, *Political Systems of Highland Burma* (London: Athlone, 1964), 13–14.
- 67 *Kenbi Transcripts*, 4899.
- 68 *Ibid.*, 5241–42.
- 69 *Ibid.*, 7332.
- 70 *Ibid.*, 7349–50.
- 71 Colin Simpson announces to the audience: "Mosec is dancing solo around the old man and I don't know if I have ever seen finer dancing in my life, he is comparable with a dancer like Le Shine the art of a fine ballet. Really, but don't take my word for it ask Ted Shawn the American dancer who toured Australia and visited Dellissaville and who said that Mosec would be a sensation in London or New York" ("Death Rite for Mabalán," *Australian Walkabout Show*).
- 72 Guidelines written to interpret the amended *Native Title Act* make these conditions explicit:

The description [must be] clear enough to allow someone else to see whether any particular person is a member of the group. The basic principle is that there should be some objective way of verifying the identity of members of the group. The following are *examples only* of what may be an acceptable description:

- biological relations of a person named in the native title claim group (and relations by adoption, or according to traditional laws and customs);
- relations or descendents of a person named in the native title claim group, and people related by marriage to those relations or descendents, including

people in de facto or multiple partnerships, where such relationships are recognised by that group's traditional laws and customs;

- relations or descendents or a person named in the native title group, and people who have been adopted by those relations or descendents;
- people who belong to the group, according to its laws and customs.

*Note: a description of the group's laws and customs may be required.*

- National Native Title Tribunal, "Guidelines to Applicants, Registration Test Information Sheet, no 2," October 1998.
- 73 *Northern Land Council and Others v. Aboriginal Land Commissioner and Another*, 554. For statements by land commissioners on the flexibility of Aboriginal traditions, see *Daly River (Malak Malak) Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Toohey* (Canberra: Australian Publishing Service, 1982); *Nicholson River Land Claim*; and *Jawoyn (Katherine Area) Land Claim, Report by the Aboriginal Land Commissioner, Mr. Justice Kearney* (Canberra: Australian Publishing Service, 1987).
- 74 See also *Kenbi Transcripts* 7317, 7320, 7341–43, 7351–55, 7464–69.
- 75 *Ibid.*, 7341–42.
- 76 *Ibid.*, 7364.
- 77 *Nomad*, Australian Music International, New York, 1994.

## 6 / THE TRUEST BELIEF IS COMPULSION

- 1 Benjamin Lee, *Talking Heads: Language, Metalanguage, and the Semiotics of Subjectivity* (Durham: Duke University Press, 1997), 342. For a critical comment on the emergence of the notion of distinterest, see Mary Poovey, *A History of the Modern Fact: Problems of Knowledge in the Sciences of Wealth and Society* (Chicago: University of Chicago Press, 1998).
- 2 Diane Bell, *Ngarrindjeri Wurruwarrin: A World That Is, Was, and Will Be* (Melbourne: Spinifex, 1998); Ronald Brunton, "The Hindmarsh Island Bridge and the Credibility of Australian Anthropology," *Anthropology Today* 21.4 (1996): 2–7; and James Weiner, "The Secret of the Ngarrindjeri: The Fabrication of Social Knowledge," *Arena* 5 (1995): 17–32.
- 3 Francesca Merlan, "The Limits of Cultural Construction," *Oceania* 61 (1991): 341–52.
- 4 Lee, *Talking Heads*, 109. In the Peircean tradition two types of indeterminacy are distinguished: indefiniteness, signaled by the quantifier "some"; and generality, signaled by the quantifier "any." In the process of distinguishing his argument from translation and interpretation from Quine's, Donald Davidson likewise distinguishes indeterminacy in terms of the quantifier "any." See Donald Davidson, "Revisiting Quine," in *The Philosophy of Donald Davidson* (Peru, Ill.: Open Court, 1999), 80–86. See also Elizabeth A. Povinelli, "Radical Worlds: The Anarchy of Incommensurability and Inconceivability," *Annual Review of Anthropology* (2001): 319–34.